

MONTANA LEGISLATIVE HISTORY

Chapter 505 19 85

Bill H 183 S _____ Original bill & history ☒ C

H. Committee on Human Services

Hearing Date(s) 2-4 _____ C

2-6 _____ C

_____ C

_____ C

Date Out 2-6 _____ C

S. Committee on Business & Industry

Hearing Date(s) 3-19 _____ C

3-21 _____ C

3-22 _____ C

3-29 _____ C

Date Out 3-29

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

HOUSE FINAL STATUS

2/06	HEARING		
3/07	COMMITTEE REPORT-BILL CONCURRED		
3/08	2ND READING CONCURRED	49	0
3/11	3RD READING CONCURRED	49	0

RETURNED TO HOUSE
 3/14 SIGNED BY SPEAKER
 3/14 SIGNED BY PRESIDENT

3/14 TRANSMITTED TO GOVERNOR
 3/15 SIGNED BY GOVERNOR
 CHAPTER NUMBER 72 EFFECTIVE DATE: 3/15/85

HB 183 INTRODUCED BY ELLERD, VINCENT, ET AL.
 DESIGNATED NONSMOKING AREA REQUIRED FOR ALL ENCLOSED
 PUBLIC PLACES

1/15	INTRODUCED		
1/15	REFERRED TO HUMAN SERVICES & AGING		
2/04	HEARING		
2/07	COMMITTEE REPORT-BILL DO PASS		
2/08	2ND READING PASS	53	47
2/09	3RD READING PASS	52	48

	TRANSMITTED TO SENATE		
2/12	REFERRED TO BUSINESS & INDUSTRY		
3/19	HEARING		
3/29	ON MOTION RULES SUSPENDED PLACED ON 3RD READING 70TH DAY		
3/30	COMM REPORT-BILL CONCURRED AS AMENDED		
4/01	2ND READING CONCURRED	31	16
4/01	3RD READING CONCURRED	33	17

	RETURNED TO HOUSE WITH AMENDMENTS		
4/04	2ND READING AMENDMENTS CONCURRED	67	23
4/05	3RD READING AMENDMENTS CONCURRED	66	28
4/12	SIGNED BY SPEAKER		
4/12	SIGNED BY PRESIDENT		

4/12 TRANSMITTED TO GOVERNOR
 4/16 SIGNED BY GOVERNOR
 CHAPTER NUMBER 505 EFFECTIVE DATE: 10/01/85

HB 184 INTRODUCED BY SCHYE, H. HAMMOND, PHILLIPS, ET AL.
 ALLOW CASH BINGO PRIZES

1/15	INTRODUCED		
1/15	REFERRED TO BUSINESS & LABOR		
1/24	HEARING		
2/05	COMMITTEE REPORT-BILL DO PASS		
2/08	2ND READING PASS AS AMENDED	85	13
2/09	3RD READING PASS	88	12

	TRANSMITTED TO SENATE		
2/11	REFERRED TO BUSINESS & INDUSTRY		
3/07	HEARING		
3/07	COMM REPORT-BILL CONCURRED AS AMENDED		
3/09	2ND READING CONCURRED	46	2
3/12	3RD READING CONCURRED	45	5

STATUS SHEET49th LEGISLATIVE SESSIONCOMMITTEE ON HUMAN SERVICES AND AGING

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
HB 44	1/7	1/9	1/9	1/9					
HB 46	1/7	1/9	1/9		1/9				
HB 49	1/7	1/16	1/16		1/16				
HB 52	1/7	1/9	1/9	1/9					
HB 113	1/7	1/11	1/11	1/11					
HB 114	1/7	1/16	1/16	1/16					
HB 116	1/7	1/16	1/16	1/16					
HB 119	1/7	1/11	1/11	1/11					
HB 141	1/11	1/16	1/16	1/16					
HB 142	1/11	1/16	1/16	1/16					
HB 165	1/14	1/21	1/21			1/21			
HB 169	1/14	1/25	1/25	1/25					
HB 182	1/14	1/18	1/18	1/18					
HB 183	1/15	2/06	2/06	2/06					
HB 202	1/16	1/21	1/21	1/21					
HB 228	1/17	1/25	1/25			1/25			

Use a separate sheet for Senate, House Bills, and Resolutions

HOUSE BILL NO. 183

INTRODUCED BY ELLERD, VINCENT, HARPER, SPAETH, O'HARA, REAM,
NELSON, HAYNE, PETERSON, MENAHAN, O'CONNELL, PECK, JANET MOORE,
HANSEN, BRANDEWIE, BERGENE, WALDRON, WINSLOW, MILES, GLASER,
DARKO, THOMAS, MERCER, RAMIREZ, MARKS, KITSELMAN, KADAS, SANDS,
KELLER, M. WILLIAMS, HARRINGTON, CONNELLY, BRADLEY,
KOEHNKE, BACHINI

IN THE HOUSE

January 15, 1985	Introduced and referred to Committee on Human Services and Aging.
February 7, 1985	Committee recommend bill do pass. Report adopted. Bill printed and placed on members' desks.
February 8, 1985	Second reading, do pass. Considered correctly engrossed.
February 9, 1985	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 12, 1985	Introduced and referred to Committee on Business and Industry.
March 29, 1985	On motion, rules temporarily suspended in order that all bills considered on second reading on the 70th Legislative Day advance to third reading that same day.
March 30, 1985	Committee recommend bill be concurrred in as amended. Report adopted.

April 1, 1985

Second reading, concurred in.

Third reading, concurred in.
Ayes, 33; Noes, 17.

Returned to House with
amendments.

IN THE HOUSE

April 2, 1985

Received from Senate.

April 4, 1985

Second reading, amendments
concurred in.

April 5, 1985

Third reading, amendments
concurred in.

Sent to enrolling.

Reported correctly enrolled.

1 *Kadla* *HOUSE* BILL NO. *183*

2 INTRODUCED BY *Edmund Vincent*

3 *Thomas Mance* A BILL FOR AN ACT ENTITLED:

4 "AN ACT TO REQUIRE THAT A

5 NONSMOKING AREA BE DESIGNATED IN EACH ENCLOSED PUBLIC PLACE;

6 TO REMOVE THE OPTION OF DESIGNATING THE ENTIRE AREA OF A

7 PUBLIC PLACE AS A SMOKING AREA; AND TO INCREASE THE PENALTY

8 FOR NONCOMPLIANCE; AMENDING SECTIONS 50-40-104 AND

9 50-40-109, MCA."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 50-40-104, MCA, is amended to read:

12 "50-40-104. Designation or reservation of smoking or

13 nonsmoking areas -- notice. (1) Except for those enclosed

14 public places provided for in 50-40-105 50-40-107, the

15 proprietor or manager of an enclosed public place shall:

16 (a) designate the entire public area as a nonsmoking

17 area with easily readable signs; or

18 (b) reserve a part of the public place for nonsmokers

19 and post easily readable signs designating a-smoking the

20 nonsmoking area. for

21 (c) ~~designate the entire area as a smoking area by~~

22 ~~posting a sign that is clearly visible to the public stating~~

23 ~~this designation.~~

24 (2) ~~The proprietor or manager of an establishment~~

1 containing enclosed public places shall post a sign in a

2 conspicuous place at all public entrances to the

3 establishment stating in a manner that can be easily read

4 and understood, whether or not areas within the

5 establishment have been reserved for nonsmokers.

6 (3)(2) The proprietor or manager of an establishment

7 containing both a restaurant and a tavern, in which some

8 patrons choose to eat their meals in the tavern, is not

9 required by this part to post a sign described in subsection

10 (2) designate a nonsmoking area in the tavern area of the

11 establishment."

12 Section 2. Section 50-40-109, MCA, is amended to read:

13 "50-40-109. Penalties. A person who fails to designate

14 or reserve a smoking or nonsmoking area in his establishment

15 as provided for in 50-40-104 is guilty of a misdemeanor and

16 is subject to a fine of not more than \$25 \$100."

-End-

MINUTES OF THE MEETING
HUMAN SERVICES AND AGING COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

February 4, 1985

The meeting of the Human Services and Aging Committee was called to order by Chairperson Nancy Keenan on February 4, 1985 at 3:00 p.m. in Room 312-2 of the State Capitol.

ROLL CALL: All members were present.

HOUSE BILL NO. 183: Hearing commenced on House Bill No. 183. Representative Robert Ellerd, District #66, sponsor of the bill, stated that an act to require that a non-smoking area be designated in each enclosed public place; to remove the option of designating the entire area of a public place as a smoking area; and to increase the penalty for non-compliance was needed. Representative Ellerd supplied testimony, Exhibit 1, which consisted of a list of the people who have signed a petition in getting a matter into law for non-smoking area. Basically, what this will accomplish is to provide a non-smoking area in every public place.

Proponents included 33 students from the Jefferson Grade School in Helena. Six of these students verbally testified and their testimony is attached hereto as Exhibits 2. Barry Yjort, representing the Montana Society of Respiratory Therapy supplied testimony from Leonard Bates of the MSRT and also from Richard Blevins, M.D., a thoracic physician who commented on the adverse consequences of cigarette smoke both in the smoker and in the unfortunate victims of passive smoking. This testimony is supplied as Exhibit 3. Representative John Vincent stated that although the Constitution of Montana does not mandate the approval of this type of legislation, it provides us with a great deal of strong direction on the subject. Jim Peterson, Chief of the Food and Consumer Safety Bureau, Montana Department of Health and Environmental Sciences stated the Department would function in a directional capacity to assist the local health agencies in enforcing the provisions of the act. Don Corti, speaking on behalf of the Missoula City/County Health Department stated that the benefits to public health which can be attained by the enactment of this bill are well documented. Corti's statements are attached as Exhibit 4. Clare Cantrell representing the Lewis and Clark City/County Health Department spoke of side stream smoke as opposed to main stream smoke. Healthy changes in the lives of State employees is the main objective of Ms. Cantrell's job. Earl Thomas from the American Lung Association stated that less than 30% of all adult Montanans smoke. The other 70% would like some say in the quality of the air they breath to live. Only one-half of the nations' smokers

agree they should not smoke in the presence of non-smokers. Mr. Thomas' testimony is attached as Exhibit 5. Don Allen, on behalf of the Montana Hospital Association stated that health care facilities are trying to designate specific areas for smokers and non-smokers. Scott Peterson, manager of Mr. Steak, stated that his restaurant does have a designated smoking and non-smoking area. John Alke representing the Montana Physicians Service/Blue Shield said that MPS is the largest health provider in the state and as one of the largest employers, will need to conform to the provisions of this action. Doug Olson is an attorney and legal services developer for the states' senior citizens. Since the administration has not taken a position on this bill, Mr. Olson is appearing on his own time and his testimony is attached as Exhibit 6. Eileen Robbins supports this bill. Ms. Robbins has bronchial asthma. She states that owners of establishments have been unwilling to designate non-smoking areas in the past even when specifically asked by Ms. Robbins. Exhibit 7 is her testimony. Ann Krebill, testifying in Exhibit 8, claims that there is a need to maintain a constitutional right to maintain a safe, sanitary environment and the Supreme Court has deferred to the decision of the legislature concerning the right to regulate private enterprise, specifically regarding non-smoking regulations. With an issue as important as smoking, it is ludicrous to say that this issue is not important enough to qualify for ensuring that all citizens are assured of their right to free choice and clean air. Bob Moon, health education consultant, Montana Department of Health and Environmental Sciences, stated that concerns over the health effects from passive cigarette smoke are hardly a myth, as some tobacco advertisements suggest. In reality, passive cigarette smoke is likely the most dangerous pollutant we face today. Exhibit 9 indicates his testimony. Kathleen Smith, a 1980-82 Montana state employee in the human services field worked in an accounting office. Because of Ms. Smith's efforts to establish non-smoking areas in offices she was perceived as an agitator and was forced to resign from her job. Because of no legislation to fall back on, there was no form of support from the Department of Health to aid Ms. Smith in regaining her job. Consequently, she supports this bill. Mary Gettle a Great Falls school teacher left a position in an office she had previously been employed in because of the hazard of cigarette smoke and her pregnancy. Her testimony is attached as Exhibit 10. John Slolan, previously employed by the Department of Health indicated his support. David Lackman, lobbyist for the Montana Public Health Association supplied a witness statement of his support and also supplied an article on the hazards of

smoke. This is attached as Exhibit 11. Written testimony is supplied by Ann Danzer and is attached as Exhibit 12.

Opponents to House Bill No. 183 included Representative Paul Pistoria who indicated that everyone had a right to smoke if they so desired. The buildings that offices occupy now have been built on cigarette taxes. Thomas W. Maddox, representing the Montana Association of Tobacco and Candy Distributors indicated his opposition and his testimony is attached as Exhibit 13. Buck Bowles, President of the Montana Chamber of Commerce, feels that this legislation is not needed. This bill would infringe on the management decision making process within an establishment. Mr. Bowles feels that we don't need state government making those kinds of decisions for business. Jerome Anderson, attorney representing the Tobacco Institute indicated that for every study that the Lung Association and the Cancer Association oppose in the use of tobacco products bring to this Committee, Anderson states that another study done by a reputable and respected health organization could be found to indicate that passive smoke is not of danger to people. Rollin D. Pratt, executive director of the Montana Restaurant Association feels that the market place will determine what is going to be done in an establishment. Phil Strobe, representing the Montana Tavern Association and the Montana Innkeepers Association states that all public places would require adherence to the law including state offices and federal offices and places of business.

There being no further proponents or opponents present, Representative Ellerd closed the discussion.

A question from Representative Cohen to Representative Ellerd consisted of whether or not the House chambers would also require a non-smoking area and the answer was yes.

There being no further questions, Chairperson Keenan closed the hearing.

HOUSE BILL NO. 455: Hearing commenced on House Bill No. 455. Representative Ben Cohen, District #3, sponsor of the bill stated that an act to require that payments for general relief medical services be considered payment in full. Cohen discussed the fiscal note which was attached with this bill. This bill would require all medical providers who accept payment from the Department of SRS to accept this payment as payment in full. Cohen said that the only time the state or county makes payments is if this person is an indigent. Many hospitals in the state

PRACTICE LIMITED TO
OBSTETRICS AND GYNECOLOGY
F.A.C.O.G.

T. T. BEDNAREK, M. D.
P. C., Inc.
1230 NORTH 30TH
BILLINGS, MONTANA 59101
TELEPHONE 252-2043

EXHIBIT 1
February 4, 1985

64
Hansen

January 17, 1985

Representative Robert A. Ellerd
State Capitol
Helena, Mt. 59620

Dear Mr. Ellerd:

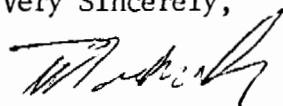
Enclosed is only a partial list of the people who have signed to help you in getting a matter into law for no-smoking areas in public places. I could have acquired at least three times more signatures if the press of time were not so evident. You will appreciate that these were obtained in less than one day. There are many anesthesiologists and also the administrator of St. Vincent's Hospital who I did not approach as well as the Billings Deaconess Hospital as of this time. *Signed*

I am certain that you are quite well aware of the need for no-smoking areas. It is of interest to me that the United States Public Health states that approximately 32% of the people of the United States still remain smokers. Only 10% of all the physicians continue to smoke. Of the 10% who smoke only 7% are cardiologists and pathologists. So it is quite evident that the vast majority of the people in the United States are no longer smokers and they should be provided with no-smoking areas or conversely those who do continue to smoke should be provided with areas for smoking.

It is our preference that public places be declared as no-smoking areas but a place be allotted for those who do smoke.

I will continue to help in any way I can.

Very Sincerely,



T. T. Bednarek, M.D.

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F.A.C.O.G.

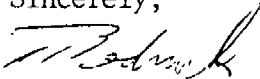
T. T. BEDNAREK, M. D.
P. C., Inc.
1230 NORTH 30TH
BILLINGS, MONTANA 59101
TELEPHONE 252-2043

January 14, 1985

This is in reference to the passage of a law allowing for
non-smoking areas in public places including restaurants.

If you are in agreement with such a law please sign.

Sincerely,



T. T. Bednarek, M.D.

Robert A. Hylton, M.D.

David H. Hedlow, M.D.

Shirley K. Hedlow

Charles R. Hedlow, M.D.

R. W. Hedlow, M.D.

Robert J. Hedlow, M.D.

David Myers, M.D.

Don E. Hedlow, M.D.

James L. Hedlow, M.D.

John Hedlow

Russell J. Hedlow, M.D.

Michael E. Hedlow, M.D.

Bill Murray

James R. Hedlow, M.D.

David R. Hedlow, M.D.

D. R. Hedlow, M.D.

Robert J. Hedlow, M.D.

Stephen C. Hedlow, M.D.

John C. Hedlow, M.D.

C

ED TO
GYNECOLOGY
A.C.O.G.

T. T. BEDNAREK, M. D.
P. C., Inc.
1230 NORTH 30TH
BILLINGS, MONTANA 59101
TELEPHONE 292 2043

January 14, 1985

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non-smoking areas in public places including restaurants.

If you are in agreement with such a law please sign.

Sincerely,

T. T. Bednarek, M.D.

Leona P. Helkower P.C.T.
Barbara Helkower - Robinson
Jeanette Helkower

Sandy Allen

Sandy Shing

K. M. Allen

Elizabeth B. Greene

J. L. Sullivan, RN.
A. L. Sullivan RN
D. L. Kimmery RN
Chloe P. P.
amccaffery RN
J. White RN

Speck

W. L. F. Will MS

J. E. Allen, MD
Vernie Krist, RN
Lanier RN

D. Bender RN

L. A. Lewis MD.

L. Unruh RN
Shirley Fraymond CRNA
Bonnie Larsen R.N.

Diane Fischer CRNA
Melissa Ovenson RN

Elizabeth E. Riley RN
Edith Woodbury RN
Diana F. Wood

Dora Lee Patten

Geraldine Bruski
Annabelle Madson

George A. Pett

~~Prose~~ Senn

Mary Ann Fischer

L. Hoba

Ruth Tombs R.N.

Lela L. Lusk

W. L. L. L. L.

Gayle
Staley RN
D. L. L.
Mary Mae RN
Barb Davenport RN

PRACTICE LIMITED TO
OBSTETRICS AND GYNECOLOGY
F.A.C.O.G.

T. T. BEDNAREK, M. D.
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BILLINGS, MONTANA 59101
TELEPHONE 252-2043

January 14, 1985

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non-smoking areas in public places including restaurants.

If you are in agreement with such a law please sign.

Sincerely,

T. T. Bednarek, M.D.

Jon M. Osim R.N.
John Zaich
Claudette Hanson
Kathleen Myers, R.N.
Michelle Reichen R.N.
K. Mark Warner SRT
Bette Jo Van Vleet
Sofiedad Arellano
Dale Rae Newmyers
Grace Soto
Julia P. Buel
Ina Rae Amick
Kathleen Orms
Riz Lohrey

Jean McDonald R.N.
Patricia Foster
Cindy Wootton R.N.
Martha Van Natta R.N.
Carol Skinstad
Linda Skinstad M.D.
Kathy Jolley R.N.
Phyllis J. Thiel LPN
Cindy K. Schneider
Bartholomew Barnes R.N.
Allene H. Morris R.N.
Fred L. Corl
Pam Beljue R.N.
Mary Anderson LPN
Mable Meeker LPN

Persons who support H.B. 183 1-30-85

Kathy Quist, Helena

Pam Campbell, Helena

LuAnn Driessen, Helena

Christopher Noe, Helena

Bob Moon, Helena

Cindy Brown, Helena

Leonard Bates, Great Falls

Skeeter Benton, Great Falls

Dan Corti, Missoula

Jim Peterson, Helena

Margaret Taulbee, Missoula

Cathy Vickers, Helena

Kathleen Wynen, Helena

Joan Fitzgerald, Helena

Judy Olson, Helena

Eileen Robbins, Helena

John McBride, Butte

Polly Holmes, Helena

Frank Kromkowski, Helena

Doug Olson, Helena

Art Kussman, Helena

Ann Krebill, Helena

Sandi Heffelfinger, Helena

Richard Buswell, M.D., Helena

R.M. Shepard, M.D., Helena

Dorothy Stevens, Helena

Debra Reynolds, Superior

Montana Society for Respiratory Therapy



Transwestern II - Suite 100
490 N. 31st Street
Billings, Montana 59101

February 1, 1985

House Human Services and Aging Committee:

The Montana Society for Respiratory Therapy supports HB 183. As Therapists and Technicians we take care of many patients who cannot tolerate breathing second-hand smoke. Because they cannot breathe clean air in many public buildings, these patients are limited to where they can go. For the sake of these patients, and because we recognize the importance to everyone of breathing only clean air, the Respiratory Therapists and Technicians of Montana support this bill.

Sincerely,

A handwritten signature in cursive script, appearing to read "Leonard Bates".

Leonard Bates
President

LB:ig

FEB 4 1985
REC'D

GREAT FALLS CLINIC

P. O. BOX 5012
1220 CENTRAL AVENUE
GREAT FALLS, MONTANA 59403
PHONE (406) 454-2171

January 28, 1985

Mr. Leonard Bates
Vo-Tech Center
2100 16 Avenue S.
Great Falls, MT 59405

To whom it may concern:

I am writing in support of the Montana Indoor Clean Air Act. I am a practicing chest physician and I have had abundant opportunities to observe the adverse consequences of cigarette smoke, both in the smoker and in the unfortunate victims of passive smoking. I have shared in the anguish of the non-smoking woman, who developed lung cancer. The only potential risk factor was the fact that she has lived with a smoking spouse for 40 years. I have listened to my non-smoking asthmatic patients repeatedly tell me about exacerbations of their asthma because of exposures to smoke-filled rooms in their working environments. I have seen babies with their multiple acute respiratory infections, which can be at least in part attributed to parenteral smoking. These serious health problems overshadow the nuisance of having an otherwise pleasurable experience ruined by a thoughtless smoker in a restaurant or other public place.

I feel it is high time to label cigarette smoking for what it is - a public health hazard. Other public health hazards have been successfully legislated for the protection of the general public and I feel that cigarette smoking falls into the same category. We have the capability of incarcerating tuberculosis patients so that they cannot contaminate the population. The adverse consequences of passive cigarette smoking are just as potentially dangerous.

Montana is frequently thought of as a conservative and somewhat backward state with social changes usually arriving in Montana long after they have swept most of the rest of the country. I hope that the current legislature will recognize their responsibility and legislate a strong Indoor Clean Air Act. Now this is an idea that has caught on in other states and is quickly gathering steam. I trust that you will

INTERNAL MEDICINE

F. J. ALLAIRE, M.D.
D. E. ANDERSON, M.D.
R. D. BLEVINS, M.D.
PULMONARY DISEASE
G. A. BUFFINGTON, M.D.
NEPHROLOGY
S. J. EFFERTZ, M.D.
RHEUMATOLOGY
J. D. EIDSON, M.D.
K. A. GUTER, M.D.
ONCOLOGY
W. H. LABUNETZ, M.D.
NEUROLOGY—EEG
T. J. LENZ, M.D.
W. N. MILLER, M.D.
GASTROENTEROLOGY
W. N. PERSON, M.D.
T. W. ROSENBAUM, M.D.
NEPHROLOGY
J. D. WATSON, M.D.
CARDIOLOGY

OBSTETRICS AND GYNECOLOGY

R. E. ASMUSSEN, M.D.
P. L. BURLEIGH, M.D.
F. J. HANDWERK, M.D.
R. L. MCCLURE, M.D.
G. K. PHILLIPS, M.D.

PEDIATRICS

J. A. CURTIS, M.D.
J. M. EICHNER, M.D.
N. C. GERRITY, M.D.
J. R. HALSETH, M.D.
J. P. HINZ, M.D.

PSYCHIATRY

D. E. ENGSTROM, M.D.

PSYCHOLOGY

E. E. SHUBAT, PH. D.

SURGERY

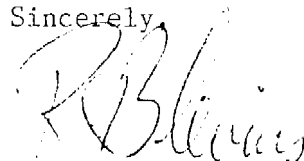
W. P. HORST, M.D.
UROLOGY
R. E. LAURITZEN, M.D.
GENERAL AND VASCULAR
J. E. MUNGAS, M.D.
VASCULAR SURGERY
L. M. TAYLOR, M.D.
GENERAL AND THORACIC
W. C. VASHAW, M.D.
GENERAL AND VASCULAR

ADMINISTRATION

W. D. TAYLOR
M. D. MISSIMER

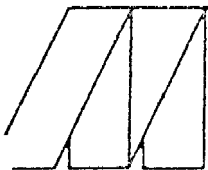
not be misled by the erroneous tobacco company advertisements, which would tend to make one think that there remains controversy about the adverse consequences of cigarette smoking and passive cigarette smoking. The scientific evidence is irrefutable and mounting daily concerning the adverse health consequences of this habit. I solicit your wholehearted support for a strong Indoor Clean Air Act.

Sincerely,

A handwritten signature in cursive script, appearing to read "R. D. Blevins".

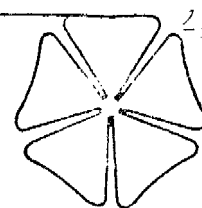
RICHARD D. BLEVINS, M.D.

RDB/lb



MISSOULA CITY-COUNTY HEALTH DEPARTMENT

301 West Alder • Missoula, Montana 59802 • Ph. (406) 721-5700



February 4, 1985

MEMO TO: Nancy Keenan, Chairman, Human Services and Aging Committee

FROM: Dan Corti, Missoula City-County Health Department

SUBJECT: H.B. 183

I am Dan Corti, speaking on behalf of the Missoula City-County Health Department as a proponent of House Bill 183.

The benefits to public health which can be attained by enactment of this bill are well documented. The dangers of passive smoking are well documented.

I am not here to persuade you of the need for this type of legislation, as I feel you are already convinced of the need. I am here to request your consideration of how exactly this act is going to be enforced.

Ultimately local health departments are going to bear the responsibility for insuring compliance with this act. To do this without additional compensation is to do the job poorly or not at all. One method which the Missoula Health Department supports is to levy a higher tobacco tax and disperse the resulting funds to local health departments proportionally, based on population. The increase in the tobacco tax would pay for the increased field work necessary under this act.

Another area in which the Missoula Health Department recommends modification of this act is Section 107, Subsection (3). To require a no-smoking section in a room seating 7 people is to have a requirement which serves little purpose. As a minimum, our Department recommends an exemption for establishments seating 15 or fewer members of the public or having 225 square feet of seating area.

The increase in the number of seats allowed under the exemption would enable establishments to designate a realistic no-smoking area. The problems associated with enforcement of this act would be somewhat alleviated if establishment owners perceived that a benefit would result. To require a no-smoking area in 95 square feet of floor space is ineffective, and expansion of the area or seating limitation exemption would be reasonable in light of ease of enforcement and protection of public health.

Anthony KENSELL, Plaintiff-Appellant,

v.

STATE OF OKLAHOMA; Oklahoma Department of Human Services; the Honorable George Nigh, Governor of Oklahoma; Reginald D. Barnes, Chairman, Oklahoma Public Welfare Commission; Lloyd E. Rader, Director, Oklahoma Department of Human Services; Clifford E. Burns, Executive Assistant Coordinator; Lowell E. Green, Executive Assistant Coordinator; Raymond Nance, Disability Insurance Unit Program Administrator; Thurma Fiegel, M.D., Chief Medical Consultant of Disability Insurance Unit; Peggy Ezernack, Disability Insurance Unit Supervisor, Defendants-Appellees.

No. 82-1361.

United States Court of Appeals,
Tenth Circuit.

Sept. 13, 1983.

Employee of the state of Oklahoma brought action against the state and various officers and employees thereof seeking damages and injunctive relief arising from defendants' failure to prohibit smoking in the area in which he worked. The United States District Court for the Western District of Oklahoma, Ralph G. Thompson, J., granted defendants' motion to dismiss for failure to state a claim upon which relief could be granted, and plaintiff appealed. The Court of Appeals, Logan, Circuit Judge, held that plaintiff could not prove that he was deprived of a federal right.

Affirmed.

Civil Rights — 13.13(3)

Civil rights claimant who allegedly suffered from respiratory and cardiovascular ailments and who sought damages and in-

junctive relief against his employer, the state of Oklahoma, and various officers and employees thereof failed to prove that he was deprived of a federal right by defendants' failure to prohibit smoking in the area where he worked. 42 U.S.C.A. § 1983.

Sylvia Marks-Barnett, Oklahoma City, Okl., for plaintiff-appellant.

David A. Brown, Oklahoma Dept. of Human Services, Oklahoma City, Okl., for defendant-appellee Oklahoma Dept. of Social Services.

Jan Eric Cartwright, Atty. Gen., John E. Douglas, Asst. Atty. Gen., Oklahoma City, Okl., for defendants-appellees Nigh and State of Okl.

Before SETH, Chief Judge and LOGAN, and SEYMOUR, Circuit Judges.

LOGAN, Circuit Judge.

After examining the briefs and the appellate record, this three-judge panel has determined unanimously that oral argument would not be of material assistance in the determination of this appeal. See Fed.R. App.P. 34(a); Tenth Cir.R. 10(e). The cause is therefore ordered submitted without oral argument.

Plaintiff L. Anthony Kensell appeals a judgment granting a motion to dismiss his amended complaint for failure to state a claim upon which relief can be granted. Fed.R.Civ.P. 12(b)(6). Alleging that he suffers from respiratory and cardiovascular ailments, the plaintiff brought suit under 42 U.S.C. § 1983, claiming that the State of Oklahoma and various officers and employees of the State of Oklahoma violated his constitutional rights under the First, Fifth, Ninth, and Fourteenth Amendments by failing to prohibit smoking in the area where plaintiff worked at the Oklahoma Department of Human Services. He sought damages and injunctive relief.¹

1. The trial court correctly noted that, regardless of the merits of Kensell's complaint, the Eleventh Amendment would require dismissal of the State of Oklahoma as a defendant and

dismissal of the claim for damages against state officers acting in their official capacity. *Edelman v. Jordan*, 415 U.S. 651, 94 S.Ct. 1347, 39 L.Ed.2d 662 (1974).

A complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts that would entitle him to recover. *Conley v. Gibson*, 355 U.S. 41, 78 S.Ct. 99, 2 L.Ed.2d 80 (1957). We affirm the district court's dismissal of the complaint; clearly the plaintiff could not prove that he was deprived of a federal right.

The plaintiff asserts that the defendants' failure to provide a smoke-free workplace violated his First Amendment rights because the smoke interfered with his ability to think. In support of that argument, appellant cites only *Rogers v. Okin*, 478 F.Supp. 1342 (D.Mass.1979), *aff'd in part, rev'd in part*, 634 F.2d 650 (1st Cir.1980), *vacated sub nom. Mills v. Rogers*, 457 U.S. 291, 102 S.Ct. 2442, 73 L.Ed.2d 16 (1982), a class action brought by patients at a Massachusetts state mental institution. Part of the relief those patients sought was an injunction against the forcible injection of psychotropic drugs. The district court held that the right to think was an aspect of the right of privacy, with its roots in the First Amendment, and that, absent an emergency, forcible injections of such drugs violated the patients' right to think. *Id.* at 1367.

The plaintiff also claims that by allowing smoking in his workplace the defendants assaulted him and thereby deprived him of his constitutional rights. In support he cites cases in which police and prison personnel have been held liable under section 1983 for assaults against persons in their custody. Finally, the plaintiff alleges that he was deprived of a property right in his state job because his only options were to endure cigarette smoke or quit. We note that the plaintiff still is an employee of the Department of Human Resources; thus, he has no constructive discharge claim. His contention that he must quit his job or endure the smoke is legally indistinguishable from his claim that his constitutional rights are violated by his being assaulted on the job by cigarette smoke.

The intrusions upon the plaintiff's person resulting from working with fellow servants who smoke is a far cry from forcible

injections of mind altering drugs and assaults committed by police or prison officials to intimidate or punish persons in their custody. This is not a case in which governmental officers are abusing power they possess only because the government is sovereign. In essence, the plaintiff has voluntarily accepted employment in an office in which he knew or should have known other employees smoke. Upon discovering that he is allergic to smoke or that it exacerbates his health problems, instead of quitting or transferring he seeks to force his employer to install a no-smoking rule in the office or to segregate smokers from nonsmokers. The state as his employer no doubt has the power to grant his request. As sovereign, it can make exposing him to smoke a tort, see *Shimp v. New Jersey Bell Telephone Co.*, 145 N.J.Super. 516, 368 A.2d 408 (1976), or a crime. See *Okla.Stat. Ann. tit. 21, § 1247*. We are certain, however, that the United States Constitution does not empower the federal judiciary, upon the plaintiff's application, to impose no-smoking rules in the plaintiff's workplace. To do so would support the most extreme expectations of the critics who fear the federal judiciary as a superlegislature promulgating social change under the guise of securing constitutional rights. *Accord Fed. Employees For Nonsmokers' Rights (FENSUR) v. United States*, 446 F.Supp. 181 (D.D.C. 1978), *aff'd mem.*, 598 F.2d 310 (D.C.Cir. 1979); *Gasper v. Louisiana Stadium and Exposition Dist.*, 418 F.Supp. 716 (E.D.La. 1976), *aff'd*, 577 F.2d 897 (5th Cir.1978).

The plaintiff appears to have eliminated his pendent state claims when he amended his complaint. In any event, when federal claims are dismissed before trial, pendent state claims should be dismissed as well. *United Mine Workers v. Gibbs*, 383 U.S. 715, 726, 86 S.Ct. 1130, 1139, 16 L.Ed.2d 218 (1966).

AFFIRMED.

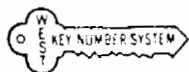


race." It would appear that the "C's" got on the registration list marked Exhibit 3 long after Ross was tried.

It would be difficult to consider the above facts and conclude that Ross has made a prima facie showing of systematic exclusion of blacks from juries in Mississippi County. While there may be underrepresentation of blacks in the master jury list, there is no credible evidence of deliberate exclusion. The evidence was to the contrary that when a black was drawn he was left on the venire. In any event, respondent argues that the courts must look to the jury panel and not the master jury list. Two of the twelve jurors who convicted Ross were black (16.6%). Four of the twenty-nine who comprised the venire were black (13.7%). These numbers are not at all disproportionate when compared to the number of blacks eligible for jury service.

[3] Although critical inquiry goes to underrepresentation or exclusion in deciding the questions presented by this case, the ultimate question is whether petitioner was accorded his constitutional right to trial by an impartial jury. It may be necessary to concentrate on the selection process when one is tried before an all white jury. That is not the case here. The Court has carefully reviewed the transcript of petitioner's trial. If error did exist in the master jury list, that error was corrected when the jury panel was selected. Ross received a fair trial before an impartial jury.

The application for habeas corpus relief will be denied.



FEDERAL EMPLOYEES FOR NON-SMOKERS' RIGHTS (FENSER) et al., Plaintiffs,

v.

UNITED STATES of America et al., Defendants.

Civ. A. No. 77-1059.

United States District Court,
District of Columbia.

March 1, 1978.

Groups opposed to smoking, and non-smokers employed by federal agencies brought action seeking declaratory and injunctive relief restricting smoking in federal buildings to designated areas. On plaintiffs' motion for summary judgment and defendants' motion for judgment on the pleadings, the District Court, Charles R. Richey, J., held that: (1) Occupational Safety and Health Act does not provide private cause of action against federal employers; (2) plaintiffs failed to state a claim upon which relief could be granted under First and Fifth Amendments and (3) parties should brief fully issue whether court had jurisdiction over common-law claim against federal employers for breach of duty to provide safe place to work.

Defendants' motion granted as to three counts and denied as to one count.

1. Action $\Rightarrow$ 3

In determining whether a private cause of action can be implied from a statute, court must focus upon language of statute and, if unclear, legislative history to ascertain whether Congress intended to allow private litigants to sue.

2. Labor Relations $\Rightarrow$ 27

Although the Occupational Safety and Health Act does require federal agencies to provide safe and healthful places and conditions of employment, Act confers no authority upon the Secretary of Labor to take enforcement action against federal agencies. Occupational Safety and Health Act

Kenneth O. GASPER et al.,

v.

LOUISIANA STADIUM AND EXPOSITION DISTRICT et al.

Civ. A. No. 75-3732.

United States District Court,
E. D. Louisiana.

Sept. 8, 1976.

Nonsmokers brought an action against the operators of the Louisiana superdome to enjoin the allowance of tobacco smoking in the superdome during events staged therein. The District Court, Jack M. Gordon, J., held that the complaint failed to state a claim upon which relief could be granted under the Civil Rights Act of 1871.

Complaint dismissed.

1. Constitutional Law ⇐90(1)

Just as First Amendment protects against the making of any law which would abridge freedom of speech or press, it also protects against any law or activity which would interfere with or contract concomitant rights to receive those thoughts disseminated under protection of First Amendment. U.S.C.A.Const. Amend. 1.

2. Constitutional Law ⇐83(1)

Nonsmokers had no constitutional right to require that operators of Louisiana superdome prohibit smoking in superdome on theory that tobacco smoke in superdome created chilling effect upon exercise of nonsmokers' First Amendment rights in that they were required to breathe harmful smoke as precondition to enjoying events held in stadium. U.S.C.A.Const. Amend. 1.

3. Constitutional Law ⇐255(2), 278(1)

Nonsmokers' Fifth and Fourteenth Amendment rights not to be deprived of life, liberty and property without due process of law were not violated by policy of Louisiana superdome of permitting persons attending events in superdome to smoke. U.S.C.A.Const. Amends. 5, 14.

4. Constitutional Law ⇐82

Constitution does not provide judicial remedies for every social and economic ill.

5. Constitutional Law ⇐82

Right to breathe clean air, free of allegedly harmful tobacco smoke, was not fundamental right protected by Ninth Amendment. U.S.C.A.Const. Amend. 9.

6. Civil Rights ⇐13.12(7)

Cause of action under Civil Rights Act of 1871 was not stated by complaint by nonsmokers alleging that they were deprived of constitutional rights by policy of Louisiana superdome in allowing patrons to smoke tobacco products within superdome. 42 U.S.C.A. § 1983.

Jacob J. Meyer, Coleman, Dutrey, Thomson, Meyer & Jurisich, New Orleans, La., for plaintiffs.

Harry McCall, Jr., Chaffe, McCall, Phillips, Toler & Sarpy, and Kendall Vick, Asst. Atty. Gen., Dept. of Justice, State of Louisiana, New Orleans, La., for defendants.

J. Harrison Henderson, III, Guste, Barnett & Colomb, New Orleans, La., for intervenor, American Lung Association of Louisiana, Inc.

JACK M. GORDON, District Judge.

This action is brought pursuant to the provisions of 42 U.S.C., § 1983, and 28 U.S.C., § 1343, in an attempt by the named plaintiffs to enjoin the Louisiana Stadium and Exposition District from continuing to allow tobacco-smoking in the Louisiana Superdome during events staged therein. The Louisiana Superdome is an enclosed arena located in New Orleans, Louisiana, owned and maintained by a political subdivision of the State of Louisiana known as the Louisiana Stadium and Exposition District (hereinafter referred to as "LSED"). The building is a public, multipurpose facility, and since its completion, has been used for many events ranging from concerts to Mardi Gras parades.

**AMERICAN LUNG ASSOCIATION OF MONTANA**

Christmas Seal Bldg. — 825 Helena Ave.
Helena, MT 59601 — Ph. 442-6556

EARL W. THOMAS
EXECUTIVE DIRECTOR

WHY IS H.B. 183 NEEDED?

LESS THAN 30%^{*1} OF ALL ADULT MONTANANS SMOKE.

THE OTHER 70%, AND ALL THOSE KIDS, WOULD LIKE SOME SAY
IN THE QUALITY OF THE AIR THEY BREATHE TO LIVE. THEY HOPE THAT
"MINORITY RULE" HAS NOT BECOME THE "MONTANA WAY".

ONLY ONE HALF OF THE NATIONS' SMOKERS (55%)^{*2} AGREE THEY
SHOULD NOT SMOKE IN THE PRESENCE OF NONSMOKERS.

THE SECOND HAND SMOKE OF THOSE WHO REFUSE TO ACCOMODATE
NONSMOKERS HURTS US ALL.

NONSMOKERS FEEL COMPELLED TO SEEK SUPPORT.

*1 Healthy Montanans: 1990 Perspectives, Dec. 1984, MT Dept. of
Health and Environmental Sciences

*2 Gallup Poll, April 1983

FACTS ABOUT NONSMOKERS

More than 30 million Americans have kicked the cigarette habit. Millions more are trying. Among adults, only one in three still smokes. In the population as a whole, it's one in four. Even counting cigar and pipe smokers, nonsmokers are a clear majority.

Nonsmokers are no longer a silent majority, though. They mind if you smoke. And they're speaking up. They see tobacco smoke as a pollutant that defiles their air. And new research gives them ammunition to defend themselves. It shows that second-hand smoke can have harmful effects on nonsmokers.

OPEN BURNING

Tobacco smoke is a very complex mixture. There are hundreds of chemical compounds in burning tobacco.

Some of the most hazardous compounds are tar, nicotine, carbon monoxide, cadmium, nitrogen dioxide, ammonia, benzene, formaldehyde, and hydrogen sulphide. And dozens of others. Any one alone can assault the body and cause trouble. Together, they make smoking the menace it is.

Even when a smoker inhales, researchers have calculated that two-thirds of the smoke from the burning cigarette goes into the environment. The percentage of pollution from cigar and pipe smoke is even higher.

SIDESTREAM SMOKE

Every time anyone lights a cigarette or cigar or pipe, tobacco smoke enters the atmosphere from two sources. Most important for nonsmokers, there is *sidestream* smoke, which goes directly into the air from the burning end. Then, there is *mainstream* smoke, which the smoker pulls through the mouthpiece when he or she inhales or puffs. Nonsmokers are also exposed to mainstream smoke after the smoker exhales it.

A cigarette smoker inhales—and exhales—mainstream smoke eight or nine times with each cigarette for a total of about 24 seconds. But the cigarette burns for 12 minutes and pollutes the air continuously with sidestream

smoke. Smokers can keep cigars and pipes burning for a much longer time. The pollution lingers long after.

Sidestream smoke—the smoke from the burning end—has higher concentrations of noxious compounds than the mainstream smoke inhaled by the smoker. Some studies show there is *twice* as much tar and nicotine in sidestream smoke compared to mainstream. And *three* times as much of a compound called 3-4 benzpyrene, which is suspected as a cancer-causing agent. *Five* times as much carbon monoxide, which robs the blood of oxygen. And 50 times as much ammonia.

There is also evidence that there is even more cadmium in sidestream smoke than in mainstream. Cadmium is now under investigation as one of the compounds in cigarette smoke that damages the air sacs of the lungs and causes emphysema.

Before the nonsmoker inhales secondhand smoke, however, some of the high concentrations of hazardous substances are diluted in the ambient air. The smoker, on the other hand, inhales both firsthand and secondhand smoke.

CARBON MONOXIDE

Carbon monoxide is a colorless, odorless gas created by incomplete combustion. Car exhaust puts it in the air. So does tobacco smoke.

While it is difficult to measure the amount of tar or cadmium in someone's lungs or body, it is relatively easy to measure the levels of carbon monoxide in the blood.

When you inhale carbon monoxide, the gas bumps oxygen molecules out of your red blood cells and forms a new compound called carboxyhemoglobin. As the amount of this compound increases in your blood, the body becomes starved for oxygen.

One study shows that after only thirty minutes in a smoke-filled room the carbon monoxide level in the nonsmoker's blood increases as well as the blood pressure and heart beat.

HAZARDOUS LEVELS

What levels of carbon monoxide are hazardous? In industry, the maximum concentrations of carbon monoxide in the air cannot average out to more than 50 p.p.m. (parts per million); and efforts are now underway to reduce the maximum. The Federal Air Quality Standards for the *outside air* limit concentrations to an average of 9 p.p.m.

Given this as a baseline, how much carbon monoxide do cigarettes send into the air?

Researchers have found that smoking seven cigarettes in one hour—even in a ventilated room—created carbon monoxide levels of 20 p.p.m. In the seat next to the smoker, the level shot up to 90 p.p.m., almost twice the maximum set for industry. Smoking ten cigarettes in an enclosed car also produced carbon monoxide levels up to 90 p.p.m. The carbon monoxide level in the blood of nonsmokers and smokers in the car *doubled*.

When nonsmokers were exposed to these levels, the carbon monoxide level in their blood not only doubled within the first hour, *but doubled again during the second hour*.

When nonsmokers leave a smoky environment, it takes hours for the carbon monoxide to leave the body. Unlike oxygen which is breathed in and then out again in minutes, carbon monoxide in the blood lasts for hours. After three or four hours, half of the excess carbon monoxide is still in the bloodstream.

EFFECTS OF THE GAS

Some studies indicate that with these levels of carbon monoxide in the blood, people—including drivers—cannot distinguish relative brightness, lose some ability to judge time intervals, and take longer to respond to tail-lights. They also show impaired performance on some psychomotor tests. These levels of carbon monoxide in the blood create physiologic stress in heart disease patients. The resultant lack of oxygen can also add distress for people who already have lung disease.

Animals exposed to carbon monoxide (levels from 50 to 100 p.p.m.) continuously for weeks showed damage to heart and brain.

OTHER COMPOUNDS

Not enough research has been done on effects of other compounds in tobacco smoke. For example, hydrogen cyanide is a poison that attacks respiratory enzymes. It is not found in ordinary air pollution. But the concentration in cigarette smoke itself is 1600 p.p.m. Long-term exposure to levels above 10 p.p.m. is considered dangerous.

Nitrogen dioxide is an acutely irritating gas that can damage the lungs. Levels of 5 p.p.m. in the air are considered dangerous. Cigarette smoke contains 250 p.p.m.

ANIMAL RESEARCH

Some researchers have exposed mice to second-hand smoke over a period of one or two years. A significant number of mice developed severe bronchitis. Rabbits exposed to smoke from 20 cigarettes per day for two to five years developed emphysema.

Dogs exposed to cigarette smoke ten times per week for one year suffered a breakdown in lung tissues. Rats exposed to second-hand smoke for 45 minutes a day for two to six months showed twice as many lung tumors as did a control group.

The exact parallel between animal and human exposure in smoke-filled rooms is hard to determine at this stage of research. But some implications are serious indeed.

SMOKE AT THE WORKPLACE

A study of nonsmokers exposed to tobacco smoke at work for many years showed a dysfunction in the small airways of the lungs of the nonsmokers. It is not yet clear whether abnormalities in the small airways precede the kind of changes that characterize chronic lung disease like emphysema. But very frequently the beginning changes of chronic lung diseases start in the small airways.

EFFECTS ON CHILDREN

Babies and young children breathe more rapidly than adults. Because of this higher breathing rate, they inhale more air—and more pollution—in comparison to their total

body weight. Some studies show youngsters inhale two to three times as much of a pollutant per unit of body weight compared to adults. And this assault happens when young lungs are growing and developing.

One major study discovered that in their first year, babies of parents who smoke at home have a much higher incidence of lung disease, specifically bronchitis and pneumonia, than babies with nonsmoking parents.

A study of the lung function of children—aged five to nine—showed an adverse reaction in the small airways of children who had smoking parents compared with those whose parents were nonsmokers.

Parents who smoke at home can aggravate symptoms in some children with asthma and even trigger asthma episodes. Millions of people, adults as well as children, are sensitive to tobacco smoke and suffer smoke-caused asthma episodes. Parents should limit their smoking to separate rooms away from these children or, better yet, should quit smoking altogether.

Even among nonasthmatic children, a team of researchers found that respiratory illnesses happened twice as often to young children whose parents smoked at home compared to those with nonsmoking parents.

In a study of 441 nonsmokers divided into two groups—those with a history of allergies and those without—70 percent of both groups suffered from eye irritations caused by smoke. Even among the nonallergic groups, 30 percent developed headaches and nasal discomfort, while 25 percent experienced cough.

SECONDHAND SMOKE AND LUNG CANCER

Some studies have found an increased risk of lung cancer in nonsmoking wives married to men who smoke. Although the studies are too few as yet to conclude a definite association between secondhand smoke and lung cancer, the findings have raised concern. Since there are cancer-causing agents in cigarette smoke, it is not unreasonable to expect that inhaling these agents firsthand or second-

hand could cause disease. Exposure to tobacco smoke may be similar to exposure to radiation: there are no safe levels.

TOBACCO SMELLS

Contamination and odors are immediately created by such elements in tobacco smoke as ammonia and pyridine. Pyridine is a strong irritant that is produced when nicotine burns. The presence of a minute amount in the air produces distinctly unpleasant odors.

The contamination is so intense that when someone smokes in an air-conditioned environment, the air-conditioning demands can jump as much as 600 percent to control odor.

Another intriguing finding from air-conditioning research is that the human body attracts tobacco smoke. Burning tobacco smoke creates a high electrical potential, whereas the water-filled human body has a low one. The smoke in a room gravitates and clings to people in much the same way as iron filings are drawn to a magnet.

And the odors linger on. Chemicals in tobacco smoke called aldehydes and ketones supply the penetrating smell, while the tars hold them to your skin and your clothes. But the smoker is not sensitive to the smell because of the destructive effects of smoke on the inner lining of his or her nose.

THE RIGHT TO BREATHE CLEAN AIR

Nonsmokers have the right to breathe clean air, free from harmful and irritating tobacco smoke. This right supersedes the right to smoke when the two conflict.

THE RIGHT TO SPEAK OUT

Nonsmokers have the right to express—firmly but politely—their adverse reactions to tobacco smoke. They have the right to voice their objections when smokers light up.

Nonsmokers have the right to act through legislative channels, social pressures or any other legitimate means—as individuals, or in groups—to prevent or discourage smokers from polluting the atmosphere and to seek the restriction of smoking in public places.

- Let family, friends, co-workers and strangers know you mind if they smoke.
- Put stickers, buttons, and signs in your home, car, and office. Request seating in nonsmoking sections when you travel.
- Support legislation to restrict smoking or set up smoke-free areas in public places.
- Ask your doctor and dentist to restrict smoking in their waiting rooms and to establish no-smoking regulations in all health care facilities, including hospitals.
- Propose no-smoking resolutions at organization meetings. Encourage hotels and restaurants to establish no-smoking areas.
- Contact your lung association to discuss ways to protect nonsmokers at work.

AMERICAN LUNG ASSOCIATION
Affiliate
"The Christmas Seal People"

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6/82

Second- Hand Smoke

Are you a nonsmoker who is shy about defending yourself against inconsiderate smokers?

Or are you a smoker who doesn't realize the distress you inflict on nonsmokers?

Find out the effects of tobacco smoke on nonsmokers.

Take A Look At The Facts †.

DOUGLAS B. OLSON
ATTORNEY AT LAW
P.O. BOX 1695
HELENA, MONTANA 59624

February 4, 1985

Committee on Human Services
& Aging
Montana House of Representatives
49th Legislative Session
State Capitol
Helena, Montana 59620

re: House Bill 183
Smoking in Public Places

Dear Chairman Keenan & Committee:

As many of you may recall from my previous appearances before your committee, I am the attorney-elderly legal services developer for Montana's senior citizens with the Seniors' Office of Legal & Ombudsman Services which is attached to the Governor's Office. The Administration has not taken a position on House Bill 183 and so when I was requested by Rep. Bob Ellerd to testify today in support of this bill, I am doing so on my own time and my views are not to be perceived as representing those of the Governor's Office.

I have been involved with the Montana Clean Indoor Air Act, Title 50, Chapter 40, Part 1, Montana Codes Annotated (MCA) which regulates smoking in public places since it was first enacted in the 1970's. At that time I served as an attorney with the Montana Department of Health & Environmental Sciences and was requested to provide assistance in drafting the bill since it concerned public health. In 1981 I had left the Department and began serving as the attorney for the elderly and continued to support strengthening this act out of a concern for those who suffer from respiratory diseases which are aggravated by smoking. Due to the aging process, many of the persons which suffer from these diseases are elderly. In the 1983 Montana Legislative Session, I supported House Bill 445 which was also introduced by Rep. Ellerd to strengthen the Montana Clean Indoor Air Act. It passed the House and almost passed the Senate that year.

You may ask why is it necessary for the Montana Legislature to consider legislation to regulate smoking in public places through a bill such as House Bill 183? In my opinion, scientific studies are providing the driving force as they continue to note the hazards, serious health hazards associated with "passive smoking" or the effects of smoke from smokers on non-smokers. I have included two articles with this testimony for your information on this subject, one from the March 29, 1983 edition of the Great Falls Tribune, and another from the February, 1985 issue of Consumer Reports.

Letter to the House Comm. on
Human Services
Mt. House of Representatives
49th Legislative Session
February 4, 1985
Page 2
re: House Bill 445

In addition to the scientific studies which support effective laws regulating smoking in public places, Montana's State Constitution also recognizes the right of its citizens to a clean and healthful environment. Article II, Section 3, recognizes as one of our inalienable rights, the "right to a clean and healthful environment...." Furthermore, Article IX, Section 1, on the Protection and Improvement of the Environment and Natural Resources provides:

"(1) The state and each person shall maintain and improve a clean and healthful environment in Montana for present and future generations. (2) The Legislature shall provide for the administration and enforcement of this duty. (3) The legislature shall provide adequate remedies for the protection of the environmental life support system from degradation and provide adequate remedies to prevent unreasonable depletion and degradation of natural resources." (emphasis added).

The Legislature has therefore been entrusted to take the necessary actions to provide for the protection of the state's citizens from health hazards. House Bill 183 does not ban all smoking in public places but it would require the managers of public places to designate an area within the public place that smoking would be prohibited. Many states are now taking steps to prohibit smoking in all but a few public places such as in Minnesota. This bill still recognizes the right of persons who desire to smoke to be able to smoke in most areas of a public place but it also recognizes the health hazards and irritation that many non-smokers suffer by providing them with an area in which smoking will not be allowed.

There are those who oppose requiring public places to designate non-smoking areas asserting that the operators or managers of public places should not be legislated into recognizing the rights of non-smokers. The marketplace would determine who would patronize businesses they say. This position is not a realistic one if we recognize that not all "public places" are restaurants or other businesses that the public has a choice to enter. Public places as defined in the Act also includes assembly and meeting rooms open to the public, auditoriums and offices. In addition, Montana as a state caters to tourists who often are uninformed as to which restaurants now offer designated non-smoking areas. If a tourist was in a restaurant that now offers no designated non-smoking areas, and if that tourist suffered from a respiratory disease and a smoker sat down at the next table, the tourist would have no choice but to leave in many instances regardless of whether or not he or she had finished the meal.

Letter to the House Comm. on
Human Services & Aging
Mt. House of Representatives
49th Legislative Session
February 4, 1985
Page 3
re: House Bill #183

Many employees at the present time who are allergic to cigarette smoke or who find it highly irritating to their eyes or lungs have no choice but to continue working in an unsafe environment because their employer is not required to designate a non-smoking area within their work place. House Bill #183 would help them by requiring their employer to take into consideration their right to work in a clean and healthful environment.

There are many other reasons for supporting this bill that I'm sure that the other witnesses today before you will address. I would conclude my testimony by summarizing my views that this bill should be supported by the scientific evidence on the hazards of second-hand smoking to non-smokers as well as the Montana Constitutional right to a "clean and healthful environment". I would hope that you as our elected legislators will implement our constitutional rights in this regard as Art. IX, Sec.1, Clause 2 charges you with the responsibility for doing. Thank you for your consideration of my views and the views of the majority of Montanans who are non-smokers.

Sincerely,


Doug Olson
Attorney
Helena

Attachments

Study reinforces claims about effects of passive smoking

PITTSBURGH (AP) — A comparison of cancer records at a hospital serving the Amish helps show that non-smokers who breathe smoke-filled air have a higher rate of lung cancer than those with little contact with smokers, a new study says.

The study concludes that a "negligible" incidence of lung cancer among the non-smoking Amish gives "additional evidence that passive smoking is associated with increased incidence of lung disease."

Dr. Gus H. Miller, a psychologist and mathematician who heads the Studies on Smoking clinic at Edinboro, surveyed 348 lung cancer cases at Lancaster General Hospital between 1971 and 1977.

The hospital serves Lancaster County, which has the nation's highest concentration of Amish, a strict religious sect whose members rarely smoke or mingle with outsiders.

The hospital's Cancer Registry, which records all cancer deaths and religious affiliation, shows only one of the 348 people who died of lung cancer during the period was Amish, and that person "was related to a cigar-smoking Amish man," Miller said.

Miller said Lancaster County physicians also have noticed that, unlike the general population, the Amish are almost free of lung disease.

"The most noticeable difference among the two populations was in the exposure to cigarette and tobacco smoke," Miller said. "Since the Amish lived in a closed society noted for its non-smoking behavior, there is nearly a complete absence of

tobacco smoke contaminants in their houses and work places.

"This condition is in contrast to non-Amish who, whether smokers or non-smokers, are constantly exposed to cigarette and tobacco smoke contaminants in their houses and places of employment," Miller said.

"Thus," he concluded, "the smokeless environment appears to be the most likely reason for the extremely low incidence of lung cancer in the Amish population."

Miller said his conclusion supports recent studies by scientists in the United States and Japan.

Miller said the Amish are "the purest non-smoking population" in the United States and were chosen for study over such other generally non-smoking groups as Mormons and Jehovah's Witnesses because the Amish live in concentrations and "are known for not intermingling with the non-Amish population."

"For more than a century, the Amish have resisted the temptation of cigarette smoking because of their religious convictions," he said.

However, Miller noted that a very few Amish men are cigar-smokers since tobacco is one of their major cash crops. In addition, he said, young Amish "have started to smoke cigarettes."

Lancaster County's population during the study period was about 349,000, which includes about 12,000 Amish, according to Miller. This ratio would presume at least 12 Amish deaths from lung cancer had the group contained smokers and non-smokers, he said.

The murky hazards of secondhand smoke

Everyone knows that tobacco smoke annoys nonsmokers. The question is, does it hurt them?

The traffic in "no smoking" signs is becoming a brisk business. Objections to other people's smoke have not yet reached the fervor of the early 1960's, when smokers were routinely executed in Constantinople or subject to imprisonment and confiscation of property in Japan. But today's smoker is fast becoming a social pariah, banished to the rear sections of aircraft and barred from an increasing variety of public places.

An antismoking trend is also taking hold in the workplace. A small but growing number of employers now refuse to hire smokers. Others, such as the Boeing Company, prohibit smoking on the job.

Demanding the right to breathe smoke-free air at work, vocal nonsmokers are sounding off to legislators as well. At latest count, four states—Arizona, Connecticut, Minnesota, and Utah—and 31 cities or counties had enacted laws to restrict smoking in the workplace. In San Francisco, for example, a city ordinance requires employers to satisfy nonsmokers' complaints, even if it means banning smoking to suit a single nonsmoker.

Smarting eyes or reeking clothes from tobacco smoke have long vexed nonsmokers. But the current drive against smoking—especially in the workplace—has an added dimension: the fear that such smoke is an actual health hazard to the bystander.

That perception of potential harm has provoked public anxiety and political action. Yet the presumed health conse-

quences of "passive smoking" rest on very few undisputed facts. In contrast to voluminous studies confirming the dangers of cigarette smoking to the smoker, evidence of risk from passive exposure is sparse and often conflicting.

As recently as 1979, the Surgeon General's report was largely reassuring. "Healthy nonsmokers exposed to cigarette smoke have little or no physiologic response to the smoke," said the report, "and what response does occur may be due to psychological factors."

Since then, however, new evidence has sparked a lively and sometimes acrimonious debate. The only area of current agreement involves potential consequences in children, especially the very young, and in the developing fetus. As underscored in the latest annual report of the Surgeon General, the evidence for such effects is convincing.

The vulnerable young

The most vulnerable of all to another person's smoking habits is the fetus, in cases where a pregnant woman smokes. There's ample evidence that maternal smoking during pregnancy increases the risk of miscarriage and stillbirth. The likelihood of delivering a stillborn child, for example, is twice as high for a heavy smoker as for a nonsmoker. Birthweight is also lower among infants of smokers, increasing the risk of health and development problems.

The very young are also susceptible. Infants and toddlers of smoking parents have an increased incidence of bronchitis

and pneumonia and are more likely to be hospitalized for respiratory infections than children of nonsmokers.

There's also evidence that a mother's smoking can affect the development of lung function in her children. Small but measurable deficits in the expected growth of lung function have been detected in both young and adolescent children of mothers who smoke. The deficits are not significant enough to affect the performance of the lungs, at least in the short run, says the latest Surgeon General's report. But the deficits raise concern about future lung function, particularly if the children become active cigarette smokers as adults.

No association was found for paternal smoking, possibly because children may spend less time in the home with fathers than with mothers. The reason remains speculative, however.

Apart from this vulnerable age group, there remains the question of how secondhand smoke affects healthy adults. This question is at the heart of the current debate about smoking on the job and in public places. It is here that the evidence becomes murky. But despite the lingering obscurity, some clarity has begun to emerge.

A puff or a pack?

A basic question is how much tobacco smoke the nonsmoker passively inhales. Over the years, estimates have ranged from the equivalent of a fraction of a puff a day to the equivalent of more than a pack a day. The difference is crucial, because the hazards of smoking are strongly dose-related. The more heavily one smokes, the greater the risk.

With passive smoking, the problem has been to establish a reliable way of estimating the dose. Many experts now agree, however, that measuring cotinine—the major biological byproduct of nicotine in the blood and urine—provides a reasonable index of exposure.

Last September, the first large-scale study of passive smoking to use cotinine measurement appeared in *The New England Journal of Medicine*. Eight researchers at two medical schools in Japan reported their findings concerning 472 nonsmokers at home and at work.

On average, nonsmokers living with

smokers had only slightly higher cotinine levels than nonsmokers in households without smokers. However, the researchers noted a definite rise in cotinine when cigarette consumption in the home totaled more than a pack a day. And in homes where consumption exceeded two packs daily, nonsmokers had significantly heightened cotinine levels—similar to those in people who smoke one or two cigarettes a day.

On the job, there was again a significant difference in exposure between nonsmokers who worked with smokers and those who didn't. But average cotinine levels recorded at work tended to be lower than those recorded in homes.

The cotinine level associated with smoking one or two cigarettes a day occurred only among one group of nonsmokers—those who worked with more than six smokers per room and who also lived in homes where more than a pack a day was consumed.

Overall, the results suggest that fairly heavy passive exposure to tobacco smoke—especially in the home—may be equivalent to smoking one or two cigarettes a day.

For U.S. nonsmokers, an obvious question is whether conditions in Japan are much different from those here. The study itself suggests an answer:

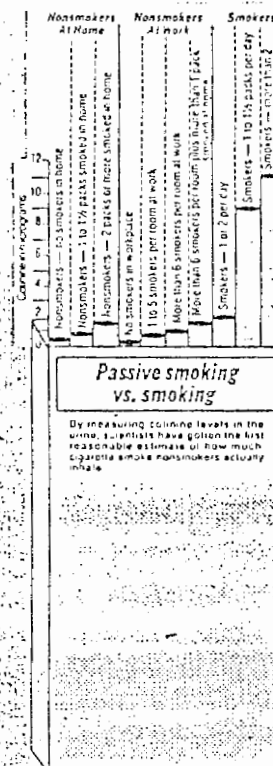
"The smoking rate in the crowded urban environment of our samples was high," the authors report. "Approximately 78 percent of the men and 26 percent of the women in Japan smoke, so that passive smoking is often almost unavoidable in public places."

In the U.S., about 37 percent of men and 29 percent of women aged 17 and older are smokers. Accordingly, passive exposure to tobacco smoke in the Japanese study is likely to have been somewhat higher than typical conditions in the U.S. It's sensible to assume, that some American nonsmokers experience the type of heavy exposure that urban Japanese encounter, but the percentage here may be smaller.

Home versus work

Current debate about passive smoking has focused on the workplace, which can be regulated, rather than the home, which effectively can't be. But if the Japanese findings are correct, the heaviest exposures to tobacco smoke tend to occur in the home. Even nonsmokers working with more than six smokers in the same room did not exhibit the highest recorded cotinine level unless they also got a hefty dose of smoke at home.

Why should the home be such a significant source of exposure, even though the workplace may harbor more smokers per



knows for sure, it's possible to estimate the trail of evidence thus far.

In search of a threshold

During the 1970's, the National Cancer Institute (NCI) attempted to identify "critical values" of cigarette consumption for 11 specific diseases and for mortality in general. The critical value for each disease was the number of cigarettes average individuals could smoke daily without increasing their mortality risk measurably above that of nonsmokers.

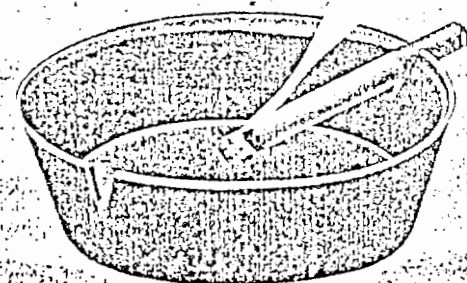
The NCI researchers analyzed data from a wide range of sources, including five previous large-scale studies that involved nearly 4 million person-years of smoking exposure. From this data, they calculated critical values for cardiovascular diseases, bronchitis, emphysema, lung cancer, and seven other smoking-related cancers. The resulting values ranged from a low of 2½ cigarettes daily for throat cancer to 10 cigarettes daily for emphysema. For all causes of death combined, the critical value was two cigarettes a day. (The combined figure covers the effects of cigarette smoking on all causes of death, not just the 11 diseases specifically studied.)

In short, the NCI's findings suggest that the average person could smoke two cigarettes a day without measurably increasing mortality risk above that of a nonsmoker. The word "measurably," though, is important.

At a cancer symposium in New York City in 1979, Dr. Gio Gori, then director of the NCI's Smoking and Health Program, took care to explain what the findings meant. He stressed that the critical value of two cigarettes a day should not be interpreted as a "safe" level of smoking. Rather, it was a level of exposure at which mortality effects were not detectable. "This doesn't mean that we do not have toxic effects," said Gori. "It just simply says that, with the methods available to us, we probably cannot recognize them."

Extending the NCI's findings to passive smoking may be premature, partly because of the form of the exposure. Very light smokers and passive smokers might inhale the same amount of smoke. But passive smokers get low doses over a long period, while active smokers get their dose in high, intermittent bursts. Nevertheless, the NCI study provides the only in-depth evaluation to date on the effect of low doses of cigarette smoke. Essentially, the NCI's conclusions suggest that passively inhaling the equivalent of one to two cigarettes a day will generally not produce any effects on mortality large enough to detect.

Of course, differences in mortality



rates are only one way to measure the health impact of exposure to tobacco smoke. Other possible effects, such as impairment of lung function or reduced resistance to infections, could also be important. But there have been no large-scale, well-controlled studies that suggest a threshold level for these effects, which are much harder to measure than death rates are.

Matters of the heart

The doses of toxic substances in mainstream smoke represent a demonstrated danger to the cardiovascular system. But most experts doubt that passive smoking plays a role in causing heart disease.

At an international conference of experts on smoking and health last April in Vienna, the participants concluded: "There is a high probability that cardiovascular damage due to passive smoking can be ruled out in healthy people."

Consequently, little attention is being focused on passive smoking and heart disease. In current research, the lung is where the action is.

Are the lungs at risk?

In March of 1980 the first large-scale study exploring possible effects of passive smoking on adults appeared in the *New England Journal of Medicine*. Researchers at the physical-education department at the University of California, San Diego, reported the results of lung-function tests on 2100 middle-aged people entering a physical-fitness program. Tests were conducted on 200 nonsmokers who lived and worked in environments relatively free of tobacco smoke. Their scores were then compared with those of 200 nonsmokers who lived in similar "smoke-free" homes but were routinely exposed to tobacco smoke for 20 years or more at work. Both groups were also compared with smokers who didn't inhale, light smokers, moderate smokers, and heavy smokers.

In the most important segments of the test—forced vital capacity and initial expiratory flow rate—there was no significant difference between the two groups of nonsmokers. However, in another segment, which detects early signs of impairment in the small airways of the lungs, there was a statistically significant difference between nonsmokers who were passively exposed at work and those who weren't.

The passive smokers' scores did not fall into a range considered clinically significant (it is indicative of possible disease). But their scores were similar to those for light smokers (1 to 10 cigarettes a day) and for those who didn't inhale.

chronic exposure to tobacco smoke at work "is deleterious to the nonsmoker and significantly reduces small-airways function."

The San Diego study has been both praised and criticized by experts on smoking and health. Many view it as breaking new ground but question its methodology or the clinical significance of its results.

In May of 1981, the Division of Lung Diseases of the National Heart, Lung, and Blood Institute sponsored a conference on the effect of passive smoking on respiratory function in adults and children. Participants from various fields of medicine and related disciplines reviewed the San Diego study and other published or ongoing research concerning the issue. They concluded the evidence suggested that the effect of passive smoking "varies from negligible to quite small." They also emphasized the importance of distinguishing between statistical significance and clinical significance.

Alarm over lung cancer

While the San Diego study attracted wide attention, a subsequent one on passive smoking drew even more. In January of 1981, a report in the *British Medical Journal* by Dr. Takeshi Hirayama of the National Cancer Center Research Institute in Tokyo raised a new specter.

The study involved 91,540 nonsmoking women in Japan. Hirayama reported that nonsmoking wives of men who smoked more than a pack a day had twice the risk of developing lung cancer as nonsmoking women married to nonsmokers. "These results," said Hirayama, "indicate the possible importance of passive or indirect smoking as one of the causal factors of lung cancer."

Soon after, a study conducted in Greece appeared in the *International Journal of Cancer*. It was small—involving only 214 subjects—and seriously flawed in methodology. But its findings were similar to those of Hirayama, thus fueling anxiety over the already worrisome data from Japan.

Within a few months, however, a large-scale study by the American Cancer Society, a longtime crusader against

smoking, produced very different results. Lawrence Garfinkel, of the society's Department of Epidemiology and Statistics, reported the findings in the June 1981 issue of the *Journal of the National Cancer Institute*.

Comparing lung-cancer rates experienced in a population of 176,739 non-smoking women in the U.S., Garfinkel found no significant difference between the wives of smokers and nonsmokers. "Nonsmokers married to smoking husbands," he reported, "showed very little, if any, increased risk of lung cancer."

Why did the Hirayama and Garfinkel studies differ so much? Possibly because, in every study to date, the index of passive smoking has been questionable. "It may be misleading to classify a woman as a passive smoker or not on the basis of her husband's smoking habit," Garfinkel says. "We all know people, married to smokers, who can't stand the smoke and try to avoid it, and others, though married to nonsmokers, who are surrounded all day by friends who smoke."

In an interview with *Medical World News* in 1981, Garfinkel said that a valid study would require careful measurement of a nonsmoker's total daily smoke exposure. Many experts now agree on that necessity.

Since the lung-cancer issue surfaced, several studies in the U.S., Hong Kong, and Europe have also addressed the topic. All involve only small numbers of subjects

and suffer from the same lack of reliable exposure data. One Hong Kong study found that nonsmoking wives of smokers had a lower rate of lung cancer than their smoke-free counterparts, which suggests, if nothing else, that the time to retire the spouse index may be at hand.

Although no convincing study of the issue has yet emerged, the lung-cancer question flared up again last November, when an unpublished paper on the subject was discussed in *The New York Times*. In an analysis of earlier studies, James L. Repace, a policy analyst at the Environmental Protection Agency, and Dr. Alfred H. Lowrey, a research chemist at the Naval Research Laboratory, concluded that passive smoking might be responsible for some 5000 lung-cancer deaths annually in the U.S.

An internal review of the paper by a member of the EPA's Carcinogen Assessment Group criticized some of its main assumptions. The estimate of 5000 lung-cancer deaths was judged questionable on various grounds.

The authors' conclusion is predicated on various assumptions about passive exposures rather than any actual mea-

surements in people. The authors also lean heavily on findings that are still in question, such as those of Hirayama and the researchers in Greece. Moreover, results that conflict with their thesis, such as those of Garfinkel, are reinterpreted on the basis of their own estimates. When questioned about this point, Repace acknowledged to *CU* that "it's always a dangerous game to reinterpret other people's results."

In short, the role of passive smoking in lung cancer, if any, remains unresolved. Among medical scientists, the prevailing view appears to be that voiced recently by Dr. Ernst Wynder, an authority on smoking and cancer: "It's too early to make a definitive statement about it."

Meanwhile, some effects of passive smoking are less ambiguous, and a few are undisputed.

The annoyance factor

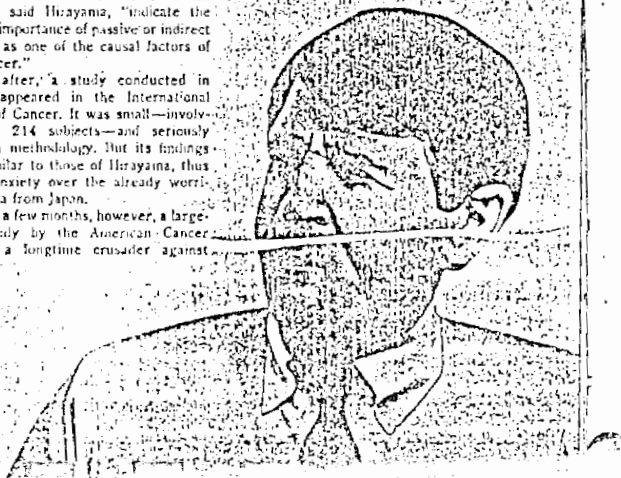
Health hazards aside, secondhand smoke causes discomfort to a significant number of people. These include some smokers as well as nonsmokers. Tobacco smoke most commonly affects the eyes, but it can also irritate the nasal passages

and can induce coughing or headache.

Although a true allergy to tobacco smoke has not been demonstrated, the smoke can be particularly irritating to people with hay fever or other allergies. It may also aggravate the symptoms of people who experience chest pain (angina) from coronary disease and of those who suffer from asthma or other chronic respiratory diseases. Accordingly, even if passive exposure is not found to cause disease in healthy people, it can be a nuisance to many and a possible risk to some people with chronic illnesses.

Some surveys indicate that a majority of smokers as well as most nonsmokers favor current restrictions on smoking in public places, such as having nonsmoking areas in restaurants or aircraft or prohibiting smoking in hospital rooms. At the same time, a minority of smokers prefer no restrictions, and a minority of nonsmokers want a complete ban.

Surely, some restrictions are desirable in the workplace as well as in public facilities—even if for comfort and aesthetics alone. But draconian measures may foster contention and wind up being observed largely in the breach.



from the fire marshal a permit to sell or a license to install fire extinguishers, fire alarm systems, or fire extinguishing systems prior to engaging in such business.

History: En. 82-1202.1 by Sec. 3, Ch. 229, L. 1967; amd. Sec. 1, Ch. 120, L. 1969; amd. Sec. 25, Ch. 366, L. 1969; amd. Sec. 12, Ch. 226, L. 1974; amd. Sec. 1, Ch. 426, L. 1975; R.C.M. 1947, 82-1202.1(part).

50-39-102. Application for certificate, permit, and license. (1) Applications for licenses, permits, or certificates shall be made on a form prescribed by the state fire marshal.

(2) The fire marshal shall issue a license to an applicant who submits satisfactory proof that he is properly equipped and staffed to provide the services to be licensed and who pays the required fee.

(3) The fire marshal shall issue a certificate of registration to an applicant who scores a passing grade on an examination devised by the fire marshal and who pays the required fee.

(4) The fire marshal shall issue a sales permit to an applicant who submits the information required by the fire marshal on the application form, who submits satisfactory proof that he deals only in equipment that meets the standards and regulations of the state fire marshal, and who pays the required fee.

History: En. 82-1202.1 by Sec. 3, Ch. 229, L. 1967; amd. Sec. 1, Ch. 120, L. 1969; amd. Sec. 25, Ch. 366, L. 1969; amd. Sec. 12, Ch. 226, L. 1974; amd. Sec. 1, Ch. 426, L. 1975; R.C.M. 1947, 82-1202.1(part).

50-39-103. Inspections and examinations authorized. The state fire marshal may conduct inspections, examinations, or hearings prior to the issuance of licenses, permits, or certificates.

History: En. 82-1202.1 by Sec. 3, Ch. 229, L. 1967; amd. Sec. 1, Ch. 120, L. 1969; amd. Sec. 25, Ch. 366, L. 1969; amd. Sec. 12, Ch. 226, L. 1974; amd. Sec. 1, Ch. 426, L. 1975; R.C.M. 1947, 82-1202.1(part).

50-39-104. Revocations and suspensions authorized. The state fire marshal may revoke, suspend, or refuse to issue a license, permit, or certificate for violation of the provisions of this part or any rules promulgated by the fire marshal under applicable law.

History: En. 82-1202.1 by Sec. 3, Ch. 229, L. 1967; amd. Sec. 1, Ch. 120, L. 1969; amd. Sec. 25, Ch. 366, L. 1969; amd. Sec. 12, Ch. 226, L. 1974; amd. Sec. 1, Ch. 426, L. 1975; R.C.M. 1947, 82-1202.1(part).

50-39-105. Fees. (1) The state fire marshal or his representative shall charge a fee, not to exceed a total of \$25, for the inspection and issuance of licenses, permits, and certificates.

(2) All fees collected under this section shall be paid into the general fund.

History: En. 82-1202.1 by Sec. 3, Ch. 229, L. 1967; amd. Sec. 1, Ch. 120, L. 1969; amd. Sec. 25, Ch. 366, L. 1969; amd. Sec. 12, Ch. 226, L. 1974; amd. Sec. 1, Ch. 426, L. 1975; R.C.M. 1947, 82-1202.1(part).

Part 2

Standardization

50-39-201. Fire protection equipment to be equipped with standard thread. Hereafter, all equipment for fire protection purposes purchased by state and municipal authorities or any other authorities having

charge of public property shall be equipped with the standard thread for fire hose couplings and hydrant fittings designated as the national standard as adopted by the national board of fire underwriters, which standard is hereby designated as the standard for such equipment in the state.

History: En. Sec. 1, Ch. 53, L. 1929; re-en. Sec. 2762.1, R.C.M. 1935; R.C.M. 1947, 82-1233.

50-39-202. Fire marshal to direct standardization. The standardization of existing fire protection equipment in this state shall be arranged for and carried out by or under the direction of the state fire marshal of Montana. The state fire marshal is authorized to proceed to make such changes as may be necessary to standardize all existing fire protection equipment in this state immediately after March 1, 1929. He shall provide such appliances as are necessary for carrying on this work and shall proceed with such standardization as rapidly as possible and complete such work at the earliest date circumstances will permit.

History: En. Sec. 2, Ch. 53, L. 1929; re-en. Sec. 2762.2, R.C.M. 1935; R.C.M. 1947, 82-1234.

50-39-203. Notice of necessary changes — converting equipment. The state fire marshal shall notify industrial establishments and property owners having equipment for fire protection purposes which it may be necessary for a fire department to use in protecting the property or putting out fire of the changes necessary to bring their equipment up to the requirements of the standard hereby established and shall render them such assistance as may be available in converting their equipment to standard requirements.

History: En. Sec. 3, Ch. 53, L. 1929; re-en. 2762.3, R.C.M. 1935; R.C.M. 1947, 82-1235.

CHAPTER 40

SMOKING IN PUBLIC PLACES

Part 1 — Montana Clean Indoor Air Act

Section

- 50-40-101. Short title.
- 50-40-102. Purpose.
- 50-40-103. Definitions.
- 50-40-104. Designation or reservation of smoking or nonsmoking areas — notice.
- 50-40-105. No smoking signs in certain places.
- 50-40-106. Requirements of health care facilities.
- 50-40-107. Exemptions.
- 50-40-108. Enforcement.
- 50-40-109. Penalties.

Part 1

Montana Clean Indoor Air Act

50-40-101. Short title. This part may be cited as the "Montana Clean Indoor Air Act of 1979".

History: En. Sec. 1, Ch. 368, L. 1979.

50-40-102. Purpose. The purpose of this part is to protect the health of nonsmokers in public places and to provide for reserved areas in some public places for those who choose to smoke.

History: En. Sec. 2, Ch. 368, L. 1979.

50-40-103. Definitions. As used in this part, the following definitions apply:

(1) "Department" means the department of health and environmental sciences provided for in Title 2, chapter 16, part 21.

(2) "Enclosed public place" means any indoor area, room, or vehicle used by the general public or serving as a place of work, including but not limited to restaurants, stores, offices, trains, buses, educational or health care facilities, auditoriums, arenas, and assembly and meeting rooms open to the public.

(3) "Establishment" means an enterprise under one roof that serves the public and for which a single person, agency, corporation, or legal entity is responsible.

(4) "Person" means an individual, partnership, corporation, association, political subdivision, or other entity.

(5) "Smoking" or "to smoke" includes the act of lighting, smoking, or carrying a lighted cigar, cigarette, pipe, or any smokable product.

(6) "Smoking area" means a designated area in which smoking is permitted.

(7) "Place of work" means an enclosed room where more than one employee works.

History: En. Sec. 3, Ch. 368, L. 1979; and, Sec. 1, Ch. 460, L. 1981.

Compiler's Comments and (6); and substituted "Place of work" for "Working area" in (7).
1981 Amendment: Added "open to the public" at the end of (2); inserted subsections (4)

50-40-104. Designation or reservation of smoking or nonsmoking areas — notice. (1) Except for those enclosed public places provided for in 50-40-105, the proprietor or manager of an enclosed public place shall:

(a) designate nonsmoking areas with easily readable signs; or
(b) reserve a part of the public place for nonsmokers and post easily readable signs designating a smoking area; or

(c) designate the entire area as a smoking area by posting a sign that is clearly visible to the public stating this designation.

(2) The proprietor or manager of an establishment containing enclosed public places shall post a sign in a conspicuous place at all public entrances to the establishment stating, in a manner that can be easily read and understood, whether or not areas within the establishment have been reserved for nonsmokers.

(3) The proprietor or manager of an establishment containing both a restaurant and a tavern, in which some patrons choose to eat their meals in the tavern, is not required by this part to post a sign described in subsection (2) in the tavern area of the establishment.

History: En. Sec. 4, Ch. 368, L. 1979; and, Sec. 2, Ch. 460, L. 1981.

Compiler's Comments designation" at the end of (1)(c); and added "clearly" to the beginning of (1)(c).

50-40-105. No smoking signs in certain places. No smoking signs shall be conspicuously posted in elevators, museums, galleries, kitchens, and libraries of any establishment doing business with the general public.

History: En. Sec. 5, Ch. 368, L. 1979.

50-40-106. Requirements of health care facilities. (1) Health care facilities shall:

(a) ask all in-patients, prior to admission, to designate their preference for a nonsmoking or smoking patient room and, when possible, accommodate such a preference;

(b) prohibit smoking in all kitchens, laboratories, and corridors;

(c) prohibit smoking in storage areas for supplies or materials and wherever flammable liquids, gases, or oxygen is stored or in use;

(d) provide a nonsmoking area in all waiting rooms;

(e) prohibit employees from smoking in patient rooms; and

(f) require visitors to obtain express approval from all patients in the patient room, or from the patients' physicians, prior to smoking.

(2) Nothing in this section shall prohibit a health care facility from banning smoking on all or a part of its premises.

(3) All areas of a health care facility not specifically referred to in this section may be considered smoking areas unless posted otherwise.

History: En. Sec. 6, Ch. 368, L. 1979.

50-40-107. Exemptions. The following shall be exempt from this part:

(1) restrooms;

(2) taverns or bars where meals are not served;

(3) vehicles or rooms seating six or fewer members of the public.

History: En. Sec. 7, Ch. 368, L. 1979.

50-40-108. Enforcement. The provisions of this part shall be supervised and enforced by the local boards of health under the direction of the department.

History: En. Sec. 8, Ch. 368, L. 1979.

50-40-109. Penalties. A person who fails to designate or reserve a smoking or nonsmoking area in his establishment as provided for in 50-40-104 is guilty of a misdemeanor and is subject to a fine of not more than \$25.

History: En. Sec. 3, Ch. 460, L. 1981.

CHAPTER 41

LAETRILE

Part 1 — General Provisions

Section	
50-41-101.	Laetrile defined.
50-41-102.	Laetrile authorized.
50-41-103.	Hospital may not interfere.
50-41-104.	Health care facility liability.
50-41-105.	Person not subject to disciplinary action.

TESTIMONY HB 183

My name is Eileen Robbins. I am speaking on behalf of myself. I support HB 183 and urge you to give it a "do pass" recommendation.

I believe it is important to all of us to designate non-smoking areas in enclosed public places.

I have bronchial asthma. Bronchial asthma is a common form of asthma due to hypersensitivity to an allergen. I am allergic to several environmental factors including: grass, cats, wood smoke, cigarette smoke, and several others. Instead of breaking out in hives or sneezing, I have difficulty breathing during exposure. My symptoms start with a tightness of the chest, followed by shortness of breath and wheezing. At this point I must medicate myself or my breathing will become even more labored and inadequate to oxygenate the cells of my body.

As a precaution, I carry a medication inhaler with me at all times; I am dependent upon it to assist bronchial dilation to allow for adequate air exchange.

I feel it is unfair for me to have to breathe air that is contaminated by cigarette smoke and particulate matter when I am in an enclosed public place. My options are to medicate myself or immediately get out of the contaminated place. In most instances I medicate myself, but for every whiff from my inhaler I am subjecting my lungs to a strong drug just to counteract the air I'm breathing!

I have learned to put up with the several side effects from the anti-asthma drugs I take; however, I feel it would be advantageous to all of us if owners of establishments geared to public use would designate non-smoking areas.

Owners of establishments have been unwilling to designate non-smoking areas^{in the past} even when specifically asked by myself and others. HB 183 would require what should be common courtesy.

Respectfully submitted,

Eileen C. Robbins

Although on the surface this appears to be a very good argument, it is inconsistent with the philosophy of our health and safety statutes, as well as every piece of legislation regulating business. Legislation exists that regulates the temperature of food in a restaurant, the citizens who can be served liquor, and even that public areas have a restroom. In some communities there are laws to even regulate the color of signs that they hang on the exterior of their building. Clearly, when there is a need to maintain a constitutional right or maintain a safe, sanitary environment, the Supreme Court has deferred to the decision of the Legislature concerning the right to regulate private enterprise, specifically regarding non-smoking regulations. With an issue as important as smoking, it is ludicrous to say that this issue is not important enough to qualify for ensuring that all citizens are assured of their right to free choice and clean air.

Other areas, such as Oregon and San Francisco, have adopted similar statutes to H.B. 183. Let us uphold Montana's honorable reputation as a state that is open-minded and willing to change. Let us not be the last to acknowledge that non-smokers deserve the same rights as smokers! I urge you to extend the logic of the Shrimp v New Jersey Bell Telephone case to include all public areas. I hope that you give H.B. 183 a DO PASS motion.

Thank you for the consideration.

Ann Krebill
Missoula
2-4-85

"The evidence is clear and overwhelming. Cigarette smoke contaminates and pollutes the air, creating a health hazard not merely to the smoker but to all those around her who must rely on the same air supply. The right of an individual to risk his or her own health does not include the right to jeopardize the health of those who must remain around him or her in order to properly perform the duty of their job."

Shrimp v New Jersey Bell Telephone
[45 NJ Super 5]6,368 A2d 408
(NJ Sup Ct, 77)

In 1983 Representative Ellerd introduced a bill similar to House Bill 183. After reviewing the testimonies presented, I feel that there were several issues unaddressed. With the hope of clarifying many of the ambiguities, I speak on behalf of myself and all other concerned citizens.

To begin, it is necessary to realize that the key issue is not solely the health issue, but it also includes the right of an individual to choose. Although the opponents of the bill will attempt to establish that this bill is constitutionally suspect, I urge you to consider that the recognition that smokers and non-smokers have the right to freedom of choice has grown since the Surgeon General's proclamation of the dangers of smoking. In fact, the courts have even alluded that there is a great enough danger to smoke to consider the health and the freedom of choice issues as being valid reasons for legislation.

Whether the government has the right to restrict a private owner by mandating a non-smoking area is of major concern for all those present. One must ask if the government has the right to restrict a private owner by mandating a non-smoking area.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES



TED SCHWINDEN, GOVERNOR

COGSWELL BUILDING

STATE OF MONTANA

HELENA, MONTANA 59620

Testimony Before the House Committee on Human Services and Aging
February 4, 1985
House Bill 183

Madam Chairman and members of this committee: For the record, I am Bob Moon, Health Education Consultant with the Division of Health and Medical Facilities of the State Department of Health and Environmental Sciences in order to enter into the record that the Department is supporting HB 183.

From a public health viewpoint, this represents an appropriate amendment to 50-40-104, the Montana Clean Indoor Air Act. Concerns over the health effects from passive cigarette smoke are hardly a myth, as some tobacco advertisements suggest. In reality, passive cigarette smoke is likely the most dangerous pollutant we face today.

Thank you.

1. Campbell, B., O'Neill, B., and Tingly, B. "Comparative Injuries to Belted and Unbelted Drivers of Sub-compact, Compact, Intermediate, and Standard Cars." Presented at the Third International Congress of Automobile Safety, San Francisco, 1974.
2. Robertson, L. "Estimates of Motor Vehicle Seat Belt Effectiveness and Use: Implications for Occupant Crash Protection." AJPH. 1976, 66:859-864.
3. Moon, Robert W. Montana Behavioral Health Risk Survey - Statewide Analysis of Selected Health Risk Factors. Montana Department of Health and Environmental Sciences, 1984.
4. Williams, A. and Robertson, L. "Observed Daytime Seatbelt Use in Vancouver Before and After the British Columbia Belt-Use Law." Canadian J. Public Health. 1979, 70:329-332.
5. Robertson, L. "The Seat Belt Use Law in Ontario: Effects on Actual Use." Canadian J. Public Health. 1978, 69:154-157.

WITNESS STATEMENT

Name Mary Gettel Committee On Human Service
Address 802 30th ST. N. Date Feb. 4, 1985
Representing self Support ✓
Bill No. H3 - 183 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. *Left employment during a pregnancy because of smoke-filled work environment.*
2. *I support this bill for myself & my child.*
3. *I believe we all are born with the right to breathe clean air.*
- 4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

Hi, I'm Mary Gettel, a teacher, and I came here today from Great Falls. This issue is very important to me so I have taken off from work to come here as I did two years ago.

The last time I was here I was expecting my first child and I told of a situation I had recently been in. I was unable to secure a teaching job in Great Falls so I found another job. I had to leave this position because of my concern for my health and that of my unborn child. I worked in a small room with a woman who smoked. The firm was not willing to allow me to work in another area of the building. I was unable to find another job at the time and was not eligible to receive any unemployment benefits because I had voluntarily left that position.

This is when I became involved with the issue of non-smokers' rights. I believe that my little girl and I were born with the right to breathe clean

WITNESS STATEMENT

NAME DAVID B. LACKMAN BILL NO. HB 183
ADDRESS 1400 Winna Avenue, Helena, MT 59601 DATE Feb. 4, 1985
WHOM DO YOU REPRESENT? Montana Public Health Association
SUPPORT X Yes OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

HB 183 Ellerd Designated Nonsmoking Area Required for All Enclosed Public Places
Comments:

I am David Lackman, lobbyist for the Montana Public Health Association, testifying in support of HB 183.

1. Resolution No. 1 of our Association; adopted from the American Public Health Association, pledges us to support the goal of various agencies in working toward a non-smoking society in the United States by the year 2,000.
2. Evidence that smoking is one of the prime insults to human health continues to mount up.
3. Not only is it a hazard to the smoker; but to others exposed to smoke. Tobacco smoke causes chromosome breakage- especially in the human fetus.
4. In the mid-thirties, data on the accumulation of lethal genes in man was fed into Univac. Out came the prediction that the species, Homo sapiens, would be extinct in 3,000,000 years. Then we didn't have data on the effect of tobacco smoke on the species. Now it appears probable that it could hasten our demise. There is no data indicating that the species is adapting to this threat.
5. Anything you can do to lessen exposure to this threat is a noble effort. We urge your support of HB 183.

House Human Services Rm 312-2 Monday 2/4 3:00 P.M.

Dangers Cited In Warnings For Smokers

After months of negotiations between health groups and the tobacco industry, which agreed to support it, federal legislation appears imminent to replace the current general warning on cigarette packages with four rotating warnings citing specific dangers associated with smoking.

The present warning label hasn't been revised in more than 13 years, and proponents of the change claim many Americans, particularly young people, are unaware of the specific health risks caused by smoking.

The current warning on cigarette packages and in advertising reads:

"The surgeon general has determined that cigarette smoking is dangerous to your health."

The new warnings, which are to rotate every three months, read:

- Smoking causes lung cancer, heart disease, emphysema, and may complicate pregnancy.
- Smoking by pregnant women may result in fetal injury, premature birth, and low birth weight.
- Cigarette smoke contains carbon monoxide.
- Quitting smoking now greatly reduces serious risks to your health.

The warnings are to be enlarged by 50 percent from their current size for greater visibility.

MONTANA PUBLIC HEALTH ASSOCIATION

Resolution No. 1

WHEREAS, cigarette smoking accounts for some 340,000 deaths each year and debilitates another 10 million people, and studies have shown the price of cigarettes might have a significant effect on cigarette sales to teenagers and young adults, and the federal government recently decreased the excise tax on cigarettes by 8 cents per package, beginning in 1985;

BE IT RESOLVED, the Montana Public Health Association executive board supports the goal of various agencies in working toward a nonsmoking society in the United States by the year 2000, and that the MPHA president write to our congressional delegation to express our disapproval of the current reduction in federal cigarette tax;

BE IT FURTHER RESOLVED, MPHA will support legislation in the 1985 Montana Legislature to increase the state cigarette tax from 16 cents to 24 cents per package, which would generate 4 to 8 million dollars in new state revenue in fiscal year 1986, and that part of that revenue be earmarked for health-related smoking prevention and education programs;

AND, BE IT FURTHER RESOLVED, the MPHA lobbyist (Dr. David B. Lackman, 1400 Winnie, Helena, MT 59601) inquire about developing such a bill and report to the executive board.

In addition, cigarette manufacturers will have to disclose the ingredients added to tobacco in the manufacturing of cigarettes. Health officials say this information will assist researchers in making more precise assessments of the toxicity of the new generation of low-tar, low-nicotine cigarettes.

The legislation also requires the U.S. Secretary of Health and Human Services to establish an interagency committee on smoking and health and gives new impetus for expanding federal smoking research and public education activities.

Proponents explained a major focus

for the new federal activities will be to encourage and assist current smokers to quit and to discourage young people from starting.

The U.S. surgeon general says smoking is the single greatest preventable cause of death in the United States. "There are 130,000 smoking-related deaths linked to cancer each year, an additional 170,000 deaths from heart disease are smoking-related, and another 50,000 die each year from emphysema and other chronic obstructive lung diseases brought on by smoking."

Public Information Unit
Department of Health and
Environmental Sciences
Helena, Montana 59620

*Treasure State Health
Fall, 1984*

WITNESS STATEMENT

Name Thomas W. Maddox Committee On Human Services
Address 1777 LeGrande Cannon Blvd. (no mail delivery)
P.O. BOX 123 Date 4 February 1985
Helena MT 59624
Representing Montana Association of Tobacco Support _____
and Candy Distributors
Bill No. House Bill 183 Oppose X
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. HB183 is not needed. Overall, Montanans have responded to the issue, on the business level and among individuals, with consideration for one another. Since original laws have been effective, in 1979, a positive educational process is under way. It is working without additional enforcement and the expense of time and money more policing requires.
2. HB183 is anti-business. Prohibition of smoking on a mandatory basis would diminish sales of the legal products targeted by HB183. Mandatory nonsmoking premises would force many who enjoy cigarette smoking to take individual and family business and patronage elsewhere. The present law allows some freedom in business conduct; it allows the competitive market place to prevail in conformity with tradition.
3. HB183 creates or fosters excessive police statism. Prosecution and convictions with \$100 fines imposes a burden on our county attorneys which could be intolerable. Our county attorneys are already burdened, both in time and budget limits, as they cope with high crimes—homicides, arson, rape cases. HB183 escalates a social courtesy issue to a degree of crime our prosecutors do not want imposed on their offices. Before you vote, seek counsel from your own county attorney, your own enforcement officers.
4. HB183 if enacted contradicts state policy of recognizing tobacco as a legal product and continually increasing dependence on tobacco smokers for government revenue, for the state's growing payrolls, and growing service costs. How great the dependence is is dramatized daily in this session, with state revenues short and some contending more cigarette tax is needed to balance the budget. If all pending state-federal legislation pending is enacted, Montanans face a tax of up to \$6.00 on a carton of cigarettes. If HB183 is enacted and cigarette smoking is diminished just one-tenth of one per cent the loss of Montana cigarette revenue would approximate \$22,000 in our ensuing two year budget. If just one more public employee be hired for enforcement, it would be that much further cost to taxpayers.
5. HB183 is adverse to Montana's major industry tourism. Visitors comment on their impressions of freedom in Montana, versus their home states.
6. HB183 is impaired with many technical problems, requiring work by legal counsel.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

Fuller presentation is attached.

Following prepared for delivery at 3 p.m., Monday, February 4, 1985, session, room 312

I'm Tom Maddox, representing the Montana Association of Tobacco and Candy Distributors

By a unanimous vote of the association members, the association is opposed to HB183, and respectfully requests that this committee kill HB183 as proposed legislation which is not necessary, anti-business and against the revenue interests of the state.

1. Our responsibility is to contribute some balance to considerations of HB183.

The Montana local wholesale cigarette distributor is performing a service to the state by being the primary source of revenue for a great amount — millions of dollars — of the state government's expense of operations. Few persons are either unaware, they have forgotten or they are taking for granted the heavy burden which the state has placed upon a relatively few Montana wholesale cigarette distributors. The law puts a squeeze on the Montana cigarette wholesalers. In the first place, they order their cigarettes from manufacturers who require cash payment within seven days, or cigarette deliveries are terminated. Then the state law requires that these wholesales pay for all taxes on cigarettes or arrange costly shortterm credit for tax indicia — tax stamps. At present the total of state-federal taxes on a carton of cigarettes is \$3.20. That's about 33 per cent of the pack or carton; for those who can afford only the cheaper generics, this percentage of tax burden is greater, for the tax remains the same. How great the dependence of our state government is being dramatized by our governor daily, for he claims the budget can't be balanced without exacting even greater tribute from the citizens who enjoy smoking their cigarettes.

Please bear with this detail. It is to make the point that House Bill 183 is aimed at reducing the viability — the dependability — of cigarette tax as a predictable revenue. We hear and read the news media: Now the economy and antibusiness actions by government has reduced the state of Montana revenue from the state's liquor business. Government had complacently over estimated this.

If pending or proposed state-federal tax increases are all enacted, the tax burden on declining numbers of those whose choice and pleasure is smoking cigarettes will be up to \$6.00 in Montana, for the maximum carton cost. To repeat: Now being requested by government is a tax of as much as \$ 6.00 a carton of cigarettes this year.

The numbers of these overly burdened taxpayers are declining. However, government's cigarette dependency for revenues grows and grows each year.

We conclude that HB183 is adverse to our state government's interests, which is to say HB183 is not in the interests of a majority of citizens, nor the thousands of state government employees.

2. Our second point: House Bill 183 is just one more of the bills which gives Montana its national image of being anti-business. If enacted, the drop in product sales would in all probability drop at a faster rate. This means loss of sales of this legal, government revenue product, and loss of income for private families all over the state who are dependent upon this business. A drop in their wages and salaries means less revenue for the state from income taxes. We have at hand a great amount of statistics to support the foregoing observations.

3. To support the statement that House Bill 183 is not necessary, you must be impressed by the educational process which is under way.

I am impressed everywhere I go that there are fewer men and women smoking cigarettes or even fewer cigar smokers than a few years ago.

Recall that first bill of this nature — House Bill 157 in 1973. (Refer to , display b

In earlier years, anti-smoking elements at times approached hysteria. But even in Montana's first such bill there was one element of common sense: It exempted public places which accommodated 30 or fewer persons. (The 1979 act exempted public places seating 6 or fewer persons.) The point is: THERE'S AN EDUCATION PROCESS GOING ON. We see it on roadside billboards, on T V where anti-smokers counsel us but government prohibits TV advertising; we see in newspapers offers for enrollment in schools or workshops to stop smoking. It's an educational process that we have observed in our legislature. I remember when visitors in the north seats of the gallery could barely distinguish through blue - brown smoke the features of the person in the speaker's chair. This session, one day we counted only nine ashtrays on representatives' desks. One was a pipe smoker. That's evidence of the educational process and evidence that House Bill 183 is not necessary legislation.

My wife and I when dining out often count the cigarette smokers. We observe that there are fewer and fewer in our restaurants. And this includes less smoking observable in the Hofbrau as well as Jorgenson's, in Tony's Lounge versus McDonalds, or wherever you wish to make a personal count.

When the first Montana "no smoking" bill was rejected in 1973, testimony was that the country was divided about 70 - 30 for smokers versus nonsmokers. Today we hear its closer to the other way around --- with 30 per cent. That's what the education process has done.

Even so, under our voluntary, independent philosophy in Montana, shopkeepers in our malls post them: NO FOOD, NO SMOKING. Our present law says it is all up to our operators of public places, and isn't that a better way than legislating more government intrusion in our private lives? Our restaurants have done a good job on the whole, posting "Non smoking" signs — in Skippers, the Pancake House, the 4Bs and many more. Even the tobacco industry nationally has an educational program to dissuade cigarette smoking among teens.

In conclusion, the present Montana Clean Indoor Act is working.

It has had a primary role in the education process.

The balanced conclusion of the consideration before this committee is clear:

The legislature doesn't need HB183; it is not necessary.

Please vote against piling on more government.

Please vote against House Bill 183.

The foregoing was prepared by Thomas Maddox, registered lobbyist,

Executive Director

Montana Association of Tobacco and Candy

Distributors, Nonprofit Inc

P. O. Box 123

Helena MT 59624

Telephone (406) 442 - 1582

Roster of association membership; support statistics available upon request.

SECTION 5 O - 4 O - 108 states, "The provisions of this part
shall be supervised and enforced by the local boards of
health under the direction of the department (State Health Dept.)"

What does this mean? To learn what this means, calls were made on the State Department of Health Consumer Safety section, the Health Departments' legal section people, and the county attorneys. This is what we learned:

NOTE:

THIS SHEET IS FOR CONSIDERATION OF THE COMMITTEE
IN EXECUTIVE SESSION, IN QUESTIONING WITNESSES,
PRIOR TO VOTING ON HOUSE BILL 183.

There are none among those interviewed who knows of a formal complaint, charge, arrest or fine under the Montana Clean Indoor Air Act of 1979. One conclusion which could be drawn is that there have been no problems, by numbers, or seriousness, to justify more law, more enforcement, more policing, or related expenses, as proposed in HB183.

With a proposed \$100.00 FINE and greater restrictive law, it might be concluded that there might be arrests which would not be made under the present \$25.00 fine. However, who would do what? First, a local health officer would have the responsibility of drafting a complaint formally, or a citation. This would be conveyed to the county attorney in most cases. Our county attorneys inform us that they are already over-burdened, and that their budgets are oft times inadequate.

If the latter contention be true, where the HB183 APPROPRIATION? Where's the fiscal note and is the respondent qualified to answer the foregoing circumstances of section 5 O - 4 O - 1 O 8? Does the state health department simply add this responsibility to its financial and personnel abilities? How is the local health department compensated for additional inspections, or citations and time taken for court testimony? How is the county attorney and his office covered on costs and personnel requirements? Custer County Attorney Keith Haker opposes HB183.

Do any serious proponents contend that they would be satisfied with merely putting such a law on the books, without today's level^{of costs} of enforcements and at times protracted trial court and appeal court action? Custer County Keith Haker doesn't believe. Our health enforcers disclaim any experience in this area. Ask others. Ask your own county attorney. Ask your local health officer.

In view of our state's financial plight, could a bill calling for so little benefit, balanced with potential costs be justified at this time. If HB183 cost the state just one-tenth of one per cent of state tax revenue from curtailing that much smoking it would approximate \$12,000 in lost revenue. If HB183 resulted in the cost of only one more government employee, evaluate how much that would take away from revenue which could enhance education in your area or fund an important need.

Montana Association of
Tobacco and Candy Distributors

1777 Le Grande Cannon Blvd., P.O. Box 123, Helena MT 59624

Telephone (406) 442-1582

January 1985

Tom Maddox,
Executive Director

The Montana Association of Tobacco and Candy Distributors is a not-for-profit corporation. It is comprised of 14 local warehouse businesses in 14 Montana cities. They comprise small businesses — independent service wholesalers of tobacco products — which the state of Montana needs so much to be successful for the progress and future of our ongoing economy.

A member-by-member survey in 1985 shows that there are 158 principals and employees — both men and women — among the association membership. As a reflection of the great personal involvement of our statewide business family, the accompanying three pages of names list 137 men and women who responded or participated in our latest annual meeting, September 21-23, in Bozeman.

These small business employees and employers are not to be confused with the major, international corporate manufacturers of cigarettes, nor the great corporate grocer chains, which are also part of the cigarette marketing system.

When you add on state sales taxes for cigarettes, legislators should realize that they are requiring these small businesses to advance tremendous capital to the state of Montana. Under Montana law, these local wholesale businesses are required to prepay federal and state taxes before the consumers purchase cigarettes. Since the laws were enacted in 1949, this fact of the prepayment of sales taxes is overlooked, or not known, by many legislators.

What other business does the legislature demand make such an out-of-pocket sacrifice for the good of the entire state?

What other product, with so low a product or unit cost, is burdened with so tremendous a tax?

If all pending state and federal legislation is approved in 1985, the burden of tax on cigarette smokers would be extracted from a minority of the taxpayers at the maximum collection of \$6.00 a carton of cigarettes, or 60 cents for a pack of 25 cigarettes; or \$5.60 for a carton of traditional 20 cigarette packs. No tax on so few is so great as this.

The greater the state tax on cigarette sales, the greater the sales of cigarettes in Montana by Indian reservation based retailers who do not pay state tax, with resultant loss of anticipated state cigarette revenues.

Montana Association of

Tobacco and Candy Distributors

1777 Le Grande Cannon Blvd., P.O. Box 123, Helena MT 59624

Telephone (406) 442-1582

P. O. Box, or other address:

ALVERSON	Jackie	1887	Bozeman	59715	
ALVERSON	Bill		Bozeman	59715	
ANDERSON	Mark	608 E Main st	Sidney	59720	482-2910
ANDERSON	Sheri		Sidney	59720	
ARLINT	W. Allen	16 W. Reserve	D Kalispell	59901	752-4479
ARLINT	Betty	555 Three Mile	Dr Kalispell	59901	257-3397
ARLINT	John	16 W. Reserve	Dr. Kalispell	59901	752-4479
AULT	Burl	123 E Johnson	Wolf Point	59201	653-1313
AULT	Eunice		Wolf Point	59201	653-2806
AULT	Tom	212 Benton st.	Wolf Point	59201	653-1313
AULT	Wanda	745 Knapp st	Wolf Point	59201	653-2806
BALDRY	Pat	7248	Missoula	59807	543-5109
BALDRY	Kathy		Missoula	59807	
BARSTAD	Maxine	1887	Bozeman	59715	1-800-221-0508
BARSTAD	Paul		Bozeman	59715	
BERGSING	Sandra	1280	Livingston	59047	222-2200
BERGSING	Tom		Livingston	59047	
BOLLINGER	Donald J	1794	Billings	59103	248-2868
BOLLINGER	Mary Ann		Billings	59103	
BOLLINGER	Jack	1794	Billings	59103	248-2868
BOLLINGER	Kay		Billings	59103	(1-800-
BUCKNER	Edward D	1280	Livingston	59047	222-2200 (221 -
BUCKNER	Jean		Livingston	59047	222-6044 (0509
BUCKNER	Scott	1280	Livingston	59047	222-2200
BUCKNER	Steve	1280	Livingston	59047	222-2200
BURGESS	Alan D	608 Main st	Sidney	59270	482-2910
BURGESS	Rosemary		Sidney	59720	
CARPITA	Dan	129 N Montana St	Dillon	59725	683-5161
CARPITA	Suzan		Dillon	59725	683-5352
CHATRIAND	Rick	7428	Missoula	59807	543-5109
CHATRIAND	Sheerry		Missoula	59807	
CLONINGER	John R III	1720X	Havre	59501	265-5558
CLONINGER	Rose		Havre	59501	
DONNER	Alvin	1720X	Havre	59501	265-5558
DONNER	Sylvia		Havre	59501	
DURNAM	Dan	1887	Bozeman	59715	
ESHELMAN	Tom	7248	Missoula	59807	
FEIST	Stan	7248	Missoula	59807	543-5109
FEIST	Linda	1301 S. 3rd St W	Missoula	59801	543-4447
FORSETH	Tom	1887	Bozeman	59715	1-800-221-0509
FORSETH	Terri		Bozeman	59715	
FOSSSEN	Denise	129 N Montana St	Dillon	59725	683-5161
FREDERICK	Bill	1155	Helena	59624	442-4333
FREDERICK	Bev		Helena	59601	
GASCON	Linda	2546	Great Falls	59403	453-7628
GIERKE	George A	Rte 1 Box 2299	MILES CITY	59301	232-1563
GIERKE	Jole	Rte 1 Box 2299	MILES CITY	59301	

GIERKE	Robt. (Bud)	Rte 1 Box 2299	Miles City	59301	232-1563
GIERKE	Marge		Miles City	59301	
GOULET	Lloyd J	Box 1720X	Havre	59501	265-5558
GOULET	Dianne		Havre	59501	265-5117
GROH	Ed	1280	Livingston	59047	
GUTTENBERG	Paul	7248	Missoula	59807	
GUTTENBERG	Jeleen		Missoula	59807	
GUZA	John	2546	Great Falls	59403	453-7628
GUZA	Opal	2546	Great Falls	59401	452-4158
HAERR	Edward G	1280	Livingston	59047	
HAERR	Anne		Livingston	59047	
HARKINS	Bill	445 Centennial Ave.	Butte	59701	782-1268
HARKINS	Irene	809 West Silver	Butte	59701	723-3657
HARKINS Sr.	Jack	445 Centennial Ave.	Butte	59701	782-1269
HARKINS	Edna	809 West Silver	Butte	59701	723-3657
HARKINS	Jack W	809 West Silver	Butte	59701	723-3657
JENSEN	Steve	7248	Missoula	59807	
JENSEN	Barbara		Missoula	59807	
KNUDSON	Alan	212 Benton st	Wolf Point	59201	
KNUDSON	Joyce		Wolf Point	59201	
LAMMERDING	Jim	1720X	Havre	59501	
LAMMERDING	Carol		Havre	59501	
LARSON	Carlton	212 Benton st	Wolf Point	59201	
LARSON	Craig		Wolf Point	59201	
LARSON	Sheri		Wolf Point	59201	
LEWIS	Ellis	1887	Bozeman	59715	586-9183
LEWIS	Wanda		Livingston	59047	222-3223
LOVELL	Ken	1887	Bozeman	59715	586-9183
LOVELL	Christi		Bozeman	59715	
McBRIDE	Phil	1794	Billings	59103	
McBRIDE	Karen		Billings	59103	
McNAMARA	Jim	1280	Livingston	59047	
McNAMARA	Sandy		Livingston	59047	
MATTER	James D	1720X	Havre	59501	
MATTER	Jeane		Havre	59501	
MEALER	Gary	2546	Great Falls	59403	
MEALER	Debbie		Great Falls	59403	
MITCHELL	Kevin	Box 459	Shelby	59474	
MITCHELL	Elaine		Shelby	59474	
NEDRUD	Norman	212 Benton st	Wolf Point	59201	
NEDRUD	Pearl		Wolf Point	59201	
NORINE	Gary	1291	Bozeman	59715	
<i>Brownington</i>	<i>Ch (Arip)</i>	<i>2546</i>	<i>Great Falls</i>	<i>59403</i>	<i>453-7628</i>
<i>Parker</i>	<i>Debbie</i>	<i>2546</i>	<i>Great Falls</i>	<i>59403</i>	<i>453-7628</i>
	<i>Mikes</i>	<i>2546</i>	<i>Great Falls</i>	<i>59403</i>	<i>453-7628</i>
	<i>Suzan</i>				

P. O. Box or other address:

PIATZ	Stan	1887	Bozeman	59715	586-9183
PIATZ	Kathy		Bozeman	59715	
PICKERING	Tim	459	Shelby	59474	434-5141
PICKERING	Annie		Shelby	59474	
PILCHER	Douglas	802 4th Ave. N.	Billings	59101	
PILCHER	Doran		Billings	59101	
POWELL	Bob	7248	Missoula	59807	543-5109
PROPP	Harold J	316 13th St. W.	Billings	59102	
PROPP	Betty		Billings	59102	
RASTELLINI	Jerry	2546	Great Falls	59403	453-7628
RASTELLINI	Cheryle		Great Falls	59401	
RUFF	Benny	459	Shelby	59474	434-5141
RUFF	Phyllis	815 Oil Field	Shelby	59474	434-2756
RUFF	Gary	459	Shelby	59474	
RUFF	Terri		Shelby	59474	
SAND	Bernie	215 N. 7th st.	Miles City	59301	232-1563
SCHEER	Mike	2546	Great Falls	59403	
SCHEER	Cheryl		Great Falls	59403	
SELWAY	Wanda	7248	Missoula	59807	
SELWAY	Jack		Missoula	59807	
SNELL	Raymond	1887	Bozeman	59715	
SNELL	Sheryl		Bozeman	59715	
SNOW	Arthur	1887	Bozeman	59715	
SPIETH	Gaylord	312 Peach	Bozeman	59715	
SPIETH	Mamie		Bozeman	59715	
THURSTON	Scott	1887	Bozeman	59715	
TIESZEN	Gary	804 4th Ave.	Billings	59102	
TIESZEN	Beverly		Billings	59102	
WAECKERLIN	James	1155	Helena	59624	
WARNER	William	1794	Billings	59103	
WARNER	Betty		Billings	59103	
WATSON	Tom	7248	Missoula	59807	543-5100
WATSON	Sydnee	624 W. Artem	Missoula	59801	
WOODRING	Dean	1155	Helena	59624	442-4333
WOODRING	Reyna	2210 National	Helena	59601	443-7284
WUEST	Ronald	1794	Billings	59103	
WUEST	Sharon		Billings	59103	

Stochsades

John Donohue

* * * *

LIFETIME HONORED MEMBERS:

BISHOP	Frank H	2100 Cannon	Helena	59601	442-2263
BISHOP	Wanteeta		Helena	59601	
ANDERSON	Joseph R	41 Saddle Butte Dr	Havre	59501	265-4835
ANDERSON	Vivian		Havre	59501	
ROYCE	William D	140 North Av E	Missoula	59801	543-7698
ROYCE	Marje		Missoula	59801	
LEWIS	Frank D.	1612 S 3rd Av	Bozeman	59715	586-9122
LEWIS	Geri		Bozeman	59715	
AULT	Burl	212 Benton st.	Wolf Point	59201	653-1313
AULT	Eunice	123 Johnson st	Wol Point	59201	653-2806

MINUTES OF THE MEETING
HUMAN SERVICES AND AGING COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

February 6, 1985

The meeting of the Human Services and Aging Committee was called to order by Chairperson Nancy Keenan on February 6, 1985 in Room 312-2 of the State Capitol.

ROLL CALL: All members were present.

HOUSE BILL NO. 579: Hearing commenced on House Bill No. 579. Representative Winslow, District #89, sponsor of the bill, stated that a person requesting voluntary admission to the Montana State Hospital receive certification from a community mental health center and that adequate treatment is unavailable in the community and to remove reference to financial ability to pay for services in the community was needed.

Proponent Curt Chisholm, deputy director of the Montana Department of Institutions testified that such a bill would eliminate much of the misunderstanding associated with admission to the Montana State Hospital. Baily Mullen also indicated his support of this bill.

There being no further proponents or opponents to this bill, Representative Winslow was then excused by the Chairperson.

Questions arose from Representative Wallin. Wallin asked Mr. Chisholm what the procedure was for admittance to a mental hospital.

There being no further questions, Chairperson Keenan closed the hearing.

HOUSE BILL NO. 560: Hearing commenced on House Bill No. 560. Representative Bardanouve of District #16, sponsor of the bill stated that an act removing the Swan River Youth Forest Camp from designation as a juvenile correctional facility was needed. Bardanouve also commented that the camp had originally been established for troubled youth and he was one of the initial sponsors of the legislation for its establishment.

Proponent Curt Chisholm, deputy director of the Montana Department of Institutions stated that the Swan River Camp had not housed juveniles for over two years. The establishment is presently being used to house young adult criminals.

There being no further proponents or opponents, the hearing

was closed by Representative Bardanouve.

Questions were raised by Representative Wallin who asked how long the facility had housed adults only. Representative Bardanouve asked if the Committee might establish an amendment to remove the word "youth" from the title.

There being no further discussion, Chairperson Keenan closed the hearing.

HOUSE BILL NO. 358: Hearing commenced on House Bill No. 358. Representative Kadas, District #55, sponsor of the bill stated that an act to create a missing children information program within the Department of Justice; to require law enforcement authorities to submit missing children reports to the program; to require the superintendent of public instruction to distribute monthly, to the schools, a list of missing school age children; and to require schools to contact any parent whose child is absent without parental verification of the absence.

Proponents included Jess Long who indicated that the age of 18 years should be changed to 16 years with regard to reporting these missing children to authorities. Dan Adcock supplied written testimonial which indicated his support of a state missing child program and that photos may be effective tools for locating children and a centralized area should be established and that more extensive efforts of the schools in contacting homes is imperative. Exhibit 1 indicates his support. JoAnne Peterson, Montana Education Association supplied Exhibit 2 which stated that the MEA's goals were to strengthen child protection. Bill Irwin, Department of Justice supplied information on the attributes of dental records and also supplied a copy of a newspaper article on missing children. Exhibit 3 is attached regarding Mr. Irwin's testimony.

There were no further proponents and opponents present. Representative Kadas was then excused by the chairperson.

EXECUTIVE SESSION

ACTION ON HOUSE BILL NO. 183: Representative Darko made a motion which was seconded by Representative Cohen that House Bill No. 183 DO PASS. Questions were raised by the Committee. A roll call vote was taken (11 yes and 7 no) to DO PASS.

ACTION ON HOUSE BILL NO. 455: Representative Gilbert made a motion that House Bill No. 455 be tabled. This motion was

DAILY ROLL CALL

HUMAN SERVICES AND AGING COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 2/6/85

NAME	PRESENT	ABSENT	EXCUSED
NANCY KEENAN	X		
BUDD GOULD	X		
TONI BERGENE	X		
DOROTHY BRADLEY	X		
JAN BROWN	X		
BUD CAMPBELL	X		
BEN COHEN	X		
MARY ELLEN CONNELLY	X		
PAULA DARKO	X		
BOB GILBERT	X		
STELLA JEAN HANSEN	X		
MARIAN HANSON	X		
MARJORIE HART	X		
HARRIET HAYNE	X		
JOHN PHILLIPS	X		
BRUCE SIMON	X		
STEVE WALDRON	X		
NORM WALLIN	X		

(Type in committee name, committee members' names, and names of secretary and chairman. Have at least 50 printed to start.)

ROLL CALL VOTE

HOUSE COMMITTEE HUMAN SERVICES AND AGING

DATE 2/6/85 House Bill No. 183 Time _____

NAME	YES	NO
Nancy Keenan	X	
Bud Gould		X
Toni Bergene	X	
Dorothy Bradley	X	
Jan Brown		X
Bud Campbell		X
Ben Cohen	X	
Mary Ellen Connelly	X	
Paula Darko	X	
Bob Gilbert	X	
Stella Jean Hansen	X	
Marian Hanson		X
Marjorie Hart		X
Harriet Hayne		X
John Phillips		X
Bruce Simon	X	
Steve Waldron	X	
Norm Wallin	X	

Alberta Strachan
Secretary

Nancy Keenan
Chairman

Motion: Motion was made to DO PASS

(Include enough information on motion -- put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

February 6, 19 85

MR. Speaker

We, your committee on Human Services and Aging

having had under consideration House Bill No. 183

first reading copy (white)
color

Designated non-smoking area required for all enclosed public places

Respectfully report as follows: That House Bill No. 183

DO PASS

CHAIRMAN--HALLIGAN, MIKE
NORMAL SCHEDULE==> SITE: ROOM 410

DAYS: M-TU-W-TH-F

TIME: 10:00 A.M.-12 NOON

SECRETARY-DUVAL, CAROL

--BILL NO--	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
HB0029	1/14	1/18	1/18	CONCUR		1/18
WILLIAMS, J. MELVIN	(MEL)		MOVING CONTRACTOR RESIDENCY DETERMINATION FROM DEPT. OF REVENUE TO COMMERCE			
HB0043	1/22	1/30	1/30 3/05	CONCUR		3/5
HARPER, HAL			UNIFORM TRADE SECRETS ACT			
HB0072	1/24	2/06	2/06 3/05	CONCUR AS AMENDED		3/5
KITSELMAN, LES			REGULATION OF INTEREST RATES ON LIFE INSURANCE POLICY LOANS			
HB0085	2/19	3/08		CONCUR		3/8
LORY, EARL C.			STATE ELIGIBLE FOR PUBLICLY OWNED GOLF COURSE BEER AND WINE LICENSES			
HB0121	3/04	3/27		CONCUR AS AMENDED		3/27
NATHE, DENNIS G.			UTILITY RATE CLASSIFICATION FOR AREAS LACKING AN ALTERNATIVE TO ELECTRICITY			
HB0127	1/30	2/07	2/07 3/05 3/28	CONCUR AS AMENDED		3/28
KEYSER, KERRY R.			REVISE LAW ON PRIVATE INVESTIGATORS AND SECURITY PATROLMEN			
HB0175	2/04	2/07	2/07 3/05	ADVERSE REPORT		3/5
KADAS, MIKE			INCREASING MEMBERSHIP OF BOARD OF PRIVATE SECURITY PATROLMEN			
HB0183	2/12	3/19	3/21 3/22 3/29	CONCUR AS AMENDED		3/29
ELLERD, ROBERT A.			DESIGNATED NONSMOKING AREA REQUIRED FOR ALL ENCLOSED PUBLIC PLACES			
HB0184	2/11	3/07		CONCUR AS AMENDED		3/7
SCHVE, TED			ALLOW CASH BINGO PRIZES			
HB0195	1/30	2/07	2/07 2/08	CONCUR		2/8
GARCIA, RODNEY L.			REPLACING REFERENCES TO MOBILE HOMES WITH FACTORY-BUILT BUILDINGS			
HB0215	2/07	3/06		CONCUR AS AMENDED		3/6
MILES, JOAN			ALLOW TEMPORARY BEER ADS ON EXTERIOR OF RETAILERS' PREMISES			

1 *House* BILL NO. *183*
 2 INTRODUCED BY *Edmund Vincent*
 3 *Thomas Mace*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THAT A
 5 NONSMOKING AREA BE DESIGNATED IN EACH ENCLOSED PUBLIC PLACE;
 6 TO REMOVE THE OPTION OF DESIGNATING THE ENTIRE AREA OF A
 7 PUBLIC PLACE AS A SMOKING AREA; AND TO INCREASE THE PENALTY
 8 FOR NONCOMPLIANCE; AMENDING SECTIONS 50-40-104 AND
 9 50-40-109, MCA."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 50-40-104, MCA, is amended to read:

13 "50-40-104. Designation or reservation of smoking or
 14 nonsmoking areas -- notice. (1) Except for those enclosed
 15 public places provided for in 50-40-105 50-40-107, the
 16 proprietor or manager of an enclosed public place shall:

17 (a) designate the entire public area as a nonsmoking
 18 areas area with easily readable signs; or

19 (b) reserve a part of the public place for nonsmokers
 20 and post easily readable signs designating a-smoking the
 21 nonsmoking area. ~~for~~

22 ~~{c}--designate-the-entire-area-as--a--smoking--area--by~~
 23 ~~posting-a-sign-that-is-clearly-visible-to-the-public-stating~~
 24 ~~this-designation:~~

25 ~~{2}--The--proprietor--or--manager--of--an-establishment~~

1 containing-enclosed-public-places-shall-post--a--sign--in--a
 2 conspicuous---place---at---all---public---entrances---to---the
 3 establishment-stating,-in-a-manner-that-can-be-easily-read
 4 and---understood,---whether---or---not---areas---within---the
 5 establishment-have-been-reserved-for-nonsmokers.

6 {3}(2) The proprietor or manager of an establishment
 7 containing both a restaurant and a tavern, in which some
 8 patrons choose to eat their meals in the tavern, is not
 9 required by this part to post-a-sign-described-in-subsection
 10 {2} designate a nonsmoking area in the tavern area of the
 11 establishment."

12 Section 2. Section 50-40-109, MCA, is amended to read:

13 "50-40-109. Penalties. A person who fails to designate
 14 or reserve a smoking-or nonsmoking area in his establishment
 15 as provided for in 50-40-104 is guilty of a misdemeanor and
 16 is subject to a fine of not more than \$25 \$100."

-End-

MINUTES OF THE MEETING
BUSINESS & INDUSTRY COMMITTEE
MONTANA STATE SENATE

March 19, 1985

The forty-first meeting of the Business & Industry Committee met on March 19, 1985 in Room 325 of the Capitol Building at 10 a.m. The meeting was called to order by Chairman Mike Halligan.

ROLL CALL: All committee members were present.

CONSIDERATION OF HOUSE BILL 183: Representative Bob Ellerd, House District #77, Bozeman, is the chief sponsor of House Bill 183 which would require that a nonsmoking area be designated in each enclosed public place, remove the option of designating the entire area of a public place as a smoking area and increase the penalty for noncompliance. He distributed a handout showing the current law in the state of Montana regarding designated smoking areas in public buildings. (EXHIBIT 1) He stressed this measure is not against those who want to smoke or purchase cigarettes but just to make more desirable areas for nonsmokers in public places. He feels it is just a common sense bill and that people are entitled to a smoke free area. This bill would require posting of signs designating smoking areas in public places. He noted there has been legislation passed in other states which proves that it can be done and work very well. He is just trying to help out some people and still not infringe on the rights of others by his measure. He noted statistics show that 70% of the people are nonsmokers and this measure would help out that 70% who do not have clean air because of the 30% who do smoke.

PROPOSERS: Representative Bob Bachini, House District #14, Havre, testified on behalf of House Bill 183 and for the school children who were present for their health and future health.

Several schoolchildren from Jefferson School in Helena then spoke in support of the legislation: Barrett Adams, explained how the gases you breathe affects your lungs and ability to exercise. (EXHIBIT 2) Molly Cox, felt it was unfair for those who do not smoke to have to breathe smoke filled air. (EXHIBIT 3) Jonnie DeRosier, testified people do not realize how dangerous smoke is to one's health because it causes many diseases of the respiratory system. She noted they had asked a tobacco lobbyist to come to their classroom and respond to questions and he had failed to do so. She felt they were well informed on the issue. (EXHIBIT 4) Kyle Waterman, told of the damage the Charlie Russell paintings have suffered as a result of smoke damage. (EXHIBIT 5) Kerry Heffelfinger feels the bill should pass for the sake of the health of people who suffer from allergies. (EXHIBIT 6)

Chris Nicholson, stated he does not like second hand smoke.
(EXHIBIT 7)

Testimony was also turned in from 32 Jefferson School students in support of House Bill 183. (EXHIBIT 8)

Rep. Ellerd told the committee that this was a choice on the student's part to prepare testimony and they were doing it as a project for the class.

Terry Odegard, a small business man in Helena and a private citizen of Helena, stated he feels that a nonsmoker has a right to a smoke free environment and still preserve the rights of a smoker. He urged support. (EXHIBIT 9)

Don Allen, representing the Montana Hospital Association, stated they support HB 183 because in their industry they have found it very helpful to designate smoking and non-smoking areas. He stated they have a commitment to treat people and to practice preventative medicine. They feel this is good legislation and urged support.

John Alke, representing Montana Physicians Service and Blue Shield, feels this measure is good for the people of the state.

Steve Brown, representing Blue Cross of Montana, feels it is a health bill which should be passed.

Rick O'Neill, Manager of a restaurant in Helena, stated in September 1983 they instituted a nonsmoking area in their establishment and have had very positive results.

Representative John Vincent, House District #80 in Bozeman, feels we should also take into consideration what other people feel about this type of legislation. He had taken a poll before the session began and found that 79% favored nonsmoking areas, 16% did not and 4% were undecided. He feels people should have a choice of having a smoke free area. He feels it would be good for business and for everyone to follow this policy. He stated his constituents were solidly behind this legislation.

Leonard Bates, President of Montana Society for Respiratory Therapy, and from Great Falls, supported the measure. He stated they care for a number of patients who can not go out in public and be in a smoke filled area. (EXHIBIT 10)

Dr. Don Espelin, a pediatrician and presently on the staff of environmental sciences for the state supported the legislation. He stated Robert Moon, health education consultant for the department of health also felt this legislation would be an appropriate amendment to the Montana Clean Indoor Air Act. He stated they also feel that passive smoking does affect one's health (EXHIBIT 11) He noted they have recently designated the Cogswell Building as all nonsmoking except for designated areas. He stated

he was a former smoker himself and how much he feels that smoking damaged his arteries and health. He also turned in an exhibit of just how smoking affects children especially in their first year of life. (EXHIBIT 12)

Ann Perkins, County Extension Agent in Lewis & Clark County, stated at a recent conference for 4-H members they had looked at this issue and urged complete support for this legislation. They feel they should have a right to a smoke free area.

Dan Conti, from the Missoula City County Health Department, spoke on behalf of the public and the benefits that can be derived from a smoke free environment and about the dangers of passive smoke. He stated he would like to see a modification of the act to require a no-smoking section in a room seating 7. He suggested changing it to read exempt those establishments seating 15 or less people or having less than 225 square feet of seating area. (EXHIBIT 13)

Earl Thomas, from the Montana Lung Association, quoted statistics on a study done on infants of families who smoke and the effects on their health. He also submitted letters from Mr. Hainline, President of 4-B's restaurants, Ed Ternes, Manager of Super 8 Motel and from employees of TW services in Yellowstone Park in support of the measure. (EXHIBIT 14)

Representative Hal Harper, House District #44, Helena, testified on behalf of this measure and for all those who are bothered by cigarette smoke. He cited an example of a new legislator who found she was very allergic to cigarette smoke after the session began. (A letter from Rep. Moore, House District 65, Condon, was received in support of the measure later that same day. EXHIBIT 15)

Doug Olson, an attorney from Helena stated he had assisted Polly Holmes when she began such legislation years ago to assure every Montanan of their right to a clean environment. He felt passive smoke was very dangerous. He feels this legislation is reasonable and fair. (EXHIBIT 16)

Ms. Dorothy Stevens, a past employee of the state, told of her experiences in her office and of the poor attitude toward the nonsmokers in the office.

Ann Krebill, private citizen from Missoula, questioned our free enterprise system and the regulations that are already imposed in different areas for the protection of our public health. She feels government has a responsibility to protect the citizens. She stated it is not the intent to deny the smoker his right to smoke but just to attempt to give an equitable right to the non-smoker by segregating public areas whenever possible. (EXHIBIT 17)

Eileen Robbins, a Montana Nurses Association representative and a private citizen who suffers from asthma feels it is extremely

unfair to have to breathe air that is contaminated by cigarette smoke. (EXHIBIT 18)

David Lackman, from the Montana Public Health Association, testified on behalf of HB 183 because of the increasing evidence that cigarette smoke is harmful to those with respiratory illness and especially to pregnant women. (EXHIBIT 19)

Letters were also submitted by Claire Cantrell, from the Lewis & Clark County Health Department, St. Peter's Community Hospital, Dr. Richard Paustian, M.D., Paul Donaldson, M.D., Falcon Press Editor Bill Schneider, and others supporting the legislation. (EXHIBIT 20)

PROPOSERS: Don Larson, owner of Jorgensons Lounge and Restaurant in Helena, feels it is a real challenge to be in business these days and keep up with all the restrictive burdens such as taxes, rules and regulations that the government imposes. He feels people inhale less smoke in his restaurant than they do just walking down the streets of Helena. He asked for the ability to manage his business without interference. (EXHIBIT 21)

Roland Pratt, Director of the Montana Restaurant Association, testified on the history of the bill and how it has now become a mandatory bill. He feels the technology available today does not allow the removal of smoke from any area completely. He felt it might lead someday to a total ban of cigarettes entirely except in your own private home or vehicle.

Tom Maddox, representing the Montana Association of Tobacco and Candy Distributors, showed the committee a list of those distributors who help pay cigarette tax which has then contributed to building Montana. He feels there is already a great deal of courtesy on the part of the smoker for the non-smoker in public areas now. He feels the present law with emphasis on volunteerism is a credit to our state and that this bill is anti-business legislation. He wondered how compliance would be enforced and stressed the burden that it would put on county attorneys. (EXHIBIT 22)

Jerome Anderson, representing the Tobacco Institute, feels we have restrictions on smoking in many areas already since the initiation of the Montana Indoor Clean Air Act. He stated this provides that areas be designated as nonsmoking and gives the proprietor the choice of the type of arrangement he desires. He feels this act would just increase the regulations imposed on private business. (EXHIBIT 23)

Dr. David Weeks, of Boise, Idaho, then testified against the legislation being proposed. He feels it will not contribute any great objective. He stated he has conducted independent reviews and studied surveys and has concluded that restricting smoking in public can not be justified on health grounds. (EXHIBIT 24)

Phil Strobe, a Helena attorney representing the Montana Innkeepers Association, feels the bill does not do what the proponents want it to do and feels it is just a "sign painter's relief bill" because of the mandatory signs that would have to be installed if this were to pass. He feels the way the statute reads it says it is a crime not to designate the area for smoking or nonsmoking but there is no crime for setting in that area and smoking. There is no crime for the proprietor of the business if he does not enforce the law. He cited some of the problems he could foresee in meeting with compliance in some of the rooms of the capitol. He felt the existing law has been directed toward restaurants for the past few years. He could see enforcement problems and thought the \$100 fine was ridiculous.

Questions were then called for from committee members. Senator Williams urged the students present to realize that they do have a free choice now and perhaps someday they might want to smoke and should keep this in the back of their mind. He then asked Terry Odegard if by putting up the nonsmoking signs in his business had been harmful in any way to his business and Terry Odegard responded it had not.

Senator Christiaens asked Dr. Weeks to respond to reports that smoking causes constriction of the blood vessels. Dr. Weeks replied that the study shows constriction of coronary arteries under increased levels of carbon monoxide gas showed that cigarettes were contributory but it was not shown whether or not the increased level of carbon monoxide caused the restriction. He felt emotional stress was harmful also. Dr. Espelin was also asked to respond and he stated he felt cigarettes had caused much of his own personal health problems. Senator Christiaens then asked Dr. Weeks if it's true that asthma and respiratory ailments were diseases. Dr. Weeks said they do know that being in a smoke filled room can cause those with asthma to be very uncomfortable but just what exactly triggers the asthma attacks is a variety of factors. Senator Fuller thought if this were so that a person would be in danger just walking down the street or going in a restaurant.

Senator Fuller asked Rep. Ellerd how you would practically alleviate problems in some areas and he stated he felt that a compromise could be worked out in most cases.

Senator Gage noted that you can accomplish things with very few people involved and that laws do not always have to be passed in order to get results. He then asked Phil Strobe if most hotels comply with this rule now and Phil Strobe replied he felt most hotels comply with this rule but for the most part people ignore the signs. Phil Strobe also felt that if enforcement were to be complied with it would require several more FTE.

Senator Goodover felt it was a no-win situation. He felt we need to have the freedom to have a choice. He felt you can not pass a law that will satisfy everyone.

Senator Williams asked Rep. Ellerd if he felt there would be a change in our habits if this bill were to pass and Rep. Ellerd felt it would not change our habits. Senator Weeding wondered about the enforcement problems and Rep. Ellerd stated you just need to practice common sense. He stated that laws in other states are working very well.

Rep. Ellerd then closed the hearing by thanking those present who testified for their patience. He noted he had contacted only the Montana Lung Association to send a representative and the others present who testified were strictly voluntary. He noted this legislation had been started by Polly Holmes several years ago. He personally believes that smoking is bad for a person's health and that is the reason he supports this measure.

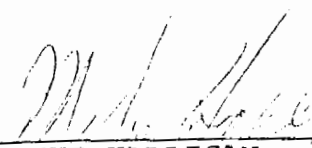
DISPOSITION OF HOUSE BILL 602: Chairman Halligan noted there had been a question of putting in the word "regularly" engaged in selling art and after some discussion with others he felt this word should be removed. Senator Williams MADE A MOTION TO REMOVE THE WORD REGULARLY ON HOUSE BILL 602. The motion carried. (EXHIBIT 24)

Senator Christiaens then MOVED TO ADOPT HOUSE BILL 602 AS AMENDED. The motion carried.

CONSIDERATION OF HOUSE BILL 707: Mr. Geoffrey Brazier, Attorney for the licensing bureau was present for questions from the committee concerning this bill. Senator Gage was concerned about the term habit and intemperance in the bill and felt this was pretty broad language. Geoffrey Brazier stated this was historical language that is in other boards but he too felt it was broad and had caused some problems. Senator Gage then MOVED THAT THE LANGUAGE BE STRUCK REGARDING HABIT AND INTEMPERANCE. The motion carried.

Senator Thayer then MOVED TO ADOPT THE AMENDMENT PROPOSED REGARDING BOUNDARIES FOR PLUMBERS. There was some discussion of whether or not farm buildings were exempt. Geoffrey Brazier felt there was an effort to recognize that farm and ranch properties were exempt. There was still some question as to whether or not you would be included if you lived on the edge of a town but were hooked to city water and sewer. Chairman Halligan asked Senator Gage to talk more with Geoffrey Brazier and then get back to the committee before final disposition is made.

The meeting was adjourned at noon.


SEN. MIKE HALLIGAN, CHAIRMAN

ROLL CALL

BUSINESS & INDUSTRY COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 3/19/85

SENATE
SENT

NAME	PRESENT	ABSENT	EXCUSED
Chairman Halligan	X		
V-chrm. Christiaens	X		
Senator Boylan	X		
Senator Fuller	X		
Senator Gage	X		
Senator Goodover	X		
Senator Kolstad	X		
Senator Neuman	X		
Senator Thayer	X		
Senator Williams	X		
Senator Weeding	X		

Each day attach to minutes.

50-40-102. Purpose. The purpose of this part is to provide the health or nonsmoking public places and to provide for reserved areas in some public places for those who choose to smoke.

History: En. Sec. 2, Ch. 368, L. 1979.

50-40-103. Definitions. As used in this part, the following definitions apply:

(1) "Department" means the department of health and environmental sciences provided for in Title 2, chapter 15, part 21.

(2) "Enclosed public place" means any indoor area, room, or vehicle used by the general public or serving as a place of work, including but not limited to restaurants, stores, offices, trains, buses, educational or health care facilities, auditoriums, arenas, and assembly and meeting rooms open to the public.

(3) "Establishment" means an enterprise under one roof that serves the public and for which a single person, agency, corporation, or legal entity is responsible.

(4) "Person" means an individual, partnership, corporation, association, political subdivision, or other entity.

(5) "Smoking" or "to smoke" includes the act of lighting, smoking, or carrying a lighted cigar, cigarette, pipe, or any smokable product.

(6) "Smoking area" means a designated area in which smoking is permitted.

(7) "Place of work" means an enclosed room where more than one employee works.

History: En. Sec. 3, Ch. 368, L. 1979; amd. Sec. 1, Ch. 460, L. 1981.

Compiler's Comments and (6); and substituted "Place of work" for "Working area" in (7).
1981 Amendment: Added "open to the public" at the end of (2); inserted subsections (4)

50-40-104. Designation or reservation of smoking or nonsmoking areas — notice. (1) Except for those enclosed public places provided for in 50-40-105, the proprietor or manager of an enclosed public place shall:

(a) designate nonsmoking areas with easily readable signs; or
(b) reserve a part of the public place for nonsmokers and post easily readable signs designating a smoking area; or

(c) designate the entire area as a smoking area by posting a sign that is clearly visible to the public stating this designation.

(2) The proprietor or manager of an establishment containing enclosed public places shall post a sign in a conspicuous place at all public entrances to the establishment stating, in a manner that can be easily read and understood, whether or not areas within the establishment have been reserved for nonsmokers.

(3) The proprietor or manager of an establishment containing both a restaurant and a tavern, in which some patrons choose to eat their meals in the tavern, is not required by this part to post a sign described in subsection (2) in the tavern area of the establishment.

History: En. Sec. 4, Ch. 368, L. 1979; amd. Sec. 2, Ch. 460, L. 1981.

Compiler's Comments designation" at the end of (1)(c); and added subsection (3).
1981 Amendment: Added "by posting a sign that is clearly visible to the public stating this

50-40-105. Nonsmoking signs. Signs shall be conspicuously posted in elevators, museums, galleries, kitchens, and libraries of any establishment doing business with the general public.

History: En. Sec. 5, Ch. 368, L. 1979.

50-40-106. Requirements of health care facilities. (1) Health care facilities shall:

(a) ask all in-patients, prior to admission, to designate their preference for a nonsmoking or smoking patient room and, when possible, accommodate such a preference;

(b) prohibit smoking in all kitchens, laboratories, and corridors;

(c) prohibit smoking in storage areas for supplies or materials and wherever flammable liquids, gases, or oxygen is stored or in use;

(d) provide a nonsmoking area in all waiting rooms;

(e) prohibit employees from smoking in patient rooms; and

(f) require visitors to obtain express approval from all patients in the patient room, or from the patients' physicians, prior to smoking.

(2) Nothing in this section shall prohibit a health care facility from banning smoking on all or a part of its premises.

(3) All areas of a health care facility not specifically referred to in this section may be considered smoking areas unless posted otherwise.

History: En. Sec. 6, Ch. 368, L. 1979.

50-40-107. Exemptions. The following shall be exempt from this part:

(1) restrooms;

(2) taverns or bars where meals are not served;

(3) vehicles or rooms seating six or fewer members of the public.

History: En. Sec. 7, Ch. 368, L. 1979.

50-40-108. Enforcement. The provisions of this part shall be supervised and enforced by the local boards of health under the direction of the department.

History: En. Sec. 8, Ch. 368, L. 1979.

50-40-109. Penalties. A person who fails to designate or reserve a smoking or nonsmoking area in his establishment as provided for in 50-40-104 is guilty of a misdemeanor and is subject to a fine of not more than \$25.

History: En. Sec. 3, Ch. 460, L. 1981.

CHAPTER 41

LAETRILE

Part 1 — General Provisions

Section		EXHIBIT 1
50-41-101.	Laetrile defined.	BUSINESS & INDUSTRY
50-41-102.	Laetrile authorized.	March 19, 1985
50-41-103.	Hospital may not interfere.	
50-41-104.	Health care facility liability.	
50-41-105.	Physician not subject to disciplinary action.	

Good morning, Chairperson Halligan and members of the committee. My name is Barrett Adams. I am a fifth grade student in Kelana. I am testifying for House Bill 183 for many reasons. One test shows that compared to the smoke inhaled by a smoker a non smoker breathes in twice as much tar and nicotine from the end of a burning cigarette five times as much carbon monoxide and 6 times as much ammonia. Also Dr. W.B. Aron of Long Beach Veterans Hospital has studied the influence of passive smoking on men who have coronary artery disease and have developed angina pectoris during exertion. Exposure to a room with smokers significantly decreased the amount of exercise the men could do before the pain started. He also noted an increase in blood pressure and irregular heart beats. Thank you for letting me talk. Barrett Adams

EXHIBIT 2
BUSINESS & INDUSTRY
March 19, 1985

EXHIBIT 3

BUSINESS & INDUSTRY

March 19, 1985

Good morning Chairperson Halligan and members of the committee. My name is Molly Cox and I am a fifth grader at Jefferson School. I want you to vote for House Bill 183 because I don't think it is fair for those of us who don't smoke to have to have to breathe in other's smoke.

Second-hand smoke is almost as harmful to your health as actually smoking a cigarette.

I don't like it when people smoke because it makes me ill. If I'm in a restaurant and someone is smoking I can't eat because of the smell. I am fully for this bill and I hope you are too. Thank-you for your time.

Molly Cox

March 19, 1985

Good morning Chairperson Holligan and members of the committee
of the House of Representatives. I am Gloria Siskind of the
Clematis School, I would like you to vote for this bill for Montana's health.

Some people don't even know how dangerous smoke. It can
cause lung cancer, emphysema, and bronchitis. This may lead
people having their lung or lungs taken out or they may become
permanently handicapped.

The gases which are drawn in by smokers are mostly
nitrogen and oxygen but still there are more harmful gases.
The other gases are formed while the cigarette is burning.
Some of them are dangerous - nitrogen dioxide and carbon
monoxide.

Nitrogen dioxide is a gas found in car exhaust, carbon
monoxide also has a great deal of car exhaust in which cause
death in poorly ventilated garages, tunnels and other areas
where the exhaust cannot escape quickly. I don't want
to breathe these gases from someone else's cigarette and
myself think this bill is an excellent idea because

smoking irritates people's allergies and it threatens
my life.

When we testified at the House hearing one of the
tobacco lobbyists said that we weren't truly informed
about the issue. We feel that we are truly informed
about the issue.

About four weeks ago we wrote and asked him to
come and talk to our classes. He never did meet
with us. Thank-you for listening

Gloria Siskind

Chairperson and members of the committee

I am Kyle Waterman from 3rd grade Jefferson School in Helena Mont.
I think this is a good law.
Because last year the Charly Ressel painting got so much
smoke they had to use q-tips to clean it. And when I go
to restrants to eat it feels funny in the smoke.
I my self don't like smoke. And smoke is bad for you and others.
That's why I like this H.B. 183
Thankyou

EXHIBIT 5
BUSINESS & INDUSTRY
March 19, 1985

EXHIBIT 6
BUSINESS & INDUSTRY
March 19, 1985

Kerry

Good morning Chairperson Halligan and members
I'm Kerry Heffelfinger and I'm a 51# trader. of the committee.

I think HB 183 should pass because I know
people who have allergies from smoke, so they can't
go to places without no-smoking areas.

Just imagine going to K-Mart looking for some soap
like but this lady is smoking it and smoking. Finally
she is finished but the problem is you've consumed all
that second-hand smoke.

Then that evening you go to Pizza Hut. You
ask for a no-smoking section. The waiter says, "O.K." and he seats you next to a smoker. After you
have finished your pizza and coughing from the
smoke you go home. You've consumed up all
that second-hand smoke. If you keep that up you
will be like a regular smoker.

This is some of our side of the story. Please
vote for HB 183.

Thank-you

Kerry Heffelfinger

— Chair person and members of the committee
Hello I am Chris Nicholson from Jefferson School
3rd grade Helena Mt. Here to talk about smoking.
Not only is it bad for your health but the other people
that don't smoke breath it too. That's called secondhand
smoking. If your smoking and the person next to you
don't — their still breathing it. The HB 1-83 sais that
there is no smoking except in designated areas.
Many of the people that don't smoke are complaining
about to much smoke in the air. I knew some people
who used to smoke two packs a day. On the other hand
the people that do smoke could probibly have one
or two for celebrations. So please vote for HB
1-83.

Thank you,

EXHIBIT 7
BUSINESS & INDUSTRY
March 19, 1985

Chairperson & members of the committee
I am Ryan Heffelfinger from Jefferson School in Mrs. Mounaghan
third grade in Helena Montana.
I think this law should be passed because no smoking design
ated areas is a good idea. Also when I go out to eat I like the
places with no smoking sections other wise it some times smells up the whole
place. When those overfisers are so cool, and then you get sick and cough
abt, you don't look or feel as cool as you did when you bought them
That's why I hope you vote for House Bill 183

Thank you

EXHIBIT 8
BUSINESS & INDUSTRY
March 19, 1985

Jan. 17, 1985
John Mues

Good morning Chair-
person Halligan and members of
the committee,

My name is John Mues and I'm
a fifth grader at Jefferson School
in Helena, MT.

I am here to testify for the
clean air act, house-bill 183,
because I have seen proof that
second hand smoke can cause
harmful damage if you are
around it a lot.

30% of the people in
Montana smoke.

So 70% of the people that go
to a place where there isn't a
no smoking area, have to breathe

in smoky air which is very
annoying.

There is twice as much tar
and nicotine that goes in the
air than there is inhaled in
from one cigarette.

If there could only be an area
for non-smokers then they
could breathe air that is clean.

Thank you for your time.

John Mues

EXHIBIT 8
BUSINESS & INDUSTRY
March 19, 1985

Helow I am a 3rd from Jefferson my name is Spay Morrison

I hope pepole will think befor smoking in the fucher.
You for instens I hope you think befor smoking if you
do smoke. think befor you smoke in a designated area it's
good for others. please don't second had smoke it's bad
for your helth and that's why I think the bill 183 should
be passed thank

Thank You

EXHIBIT 8
BUSINESS & INDUSTRY
March 19, 1985

I am Tim Unger from Jefferson School 1st - 3rd m.
I am in Third grade, and I am eight. Jan. 10, 1985

I think in at least one place in all bildings. Becau
if I went to a building I wouldn't want smoke in
my eyes. I went to a football game and the perso
in front of me was smoking. I'm allergic to smoke.
Smoking can kill a person. I will never ever smoke.
My grama smoked before but she has stoped now. My
aint used to smoke but she went to church one day
and the lord told her not to smoke and she quit.
There should be one place in every bilding there is
no smoking areas. Thank you

EXHIBIT 8
BUSINESS & INDUSTRY
March 19, 1985

I am Sanya Worthy from Jefferson school in Helena Montana.

I think the law should be made because you do not go in a public place to smell cigaret smoke. Some people get sick from second hand smoke. People who do smoke should smoke in their house. Some people do not like the smell of second hand smoke. And if you drop a cigaret in a public place, it could burn down a building. And if you smoke in your house at least you do not burn down a public place. Some times you go to a restaurant to eat food, not second hand smoke. If you go in a public place when some one is smoking your eyes water. And that is why I think the bill should be made.

Thank you

EXHIBIT 8
BUSINESS & INDUSTRY
March 19, 1985

I am Jesse Melvin a third grader from Jefferson School.
Chair person
of the Committee
Jesse Melvin Jan 18, 1985

I would like to testify for the HB 183 because
1st hand smoking is bad for your health.
So is it bad other people's health. Cigarette
smoke in there lungs so. Don't smoke.
It will help other people including
you. So that's why you should vote
for the bill 183.

EXHIBIT 8
BUSINESS & INDUSTRY
March 19, 1985

Thank you

I Louis Badd ^{3rd} Jan. 18, 1985 Jefferson School Helena

I think smoking is bad for your health
I give a cake a bowl your box and your lung
with you go to a test for it you do that to eat
not to eat smoke please vote for are bill

Thank YOU!

EXHIBIT 8
BUSINESS & INDUSTRY
March 19, 1985

I'm Gabriel Bernatter I'm in third grade at Jefferson
School Helena, Montana. I'm for House bill 183 one reason is that it is
bad for you and it kills. My grandfather died from smoking. When I'm
in a restaurant when smoke passes over to my face I start to
cough and I can't eat. There is a lot of poisons in cigarettes
that can kill easily. I really want it to be a law that smokers
can't smoke except in smoking areas. That is why I want this
bill to get through than you.

EXHIBIT 8
BUSINESS & INDUSTRY
March 19, 1985

I am R. Ann Eley ^{3rd} Jefferson School Helena, Mt.
Mrs. Manghaghon

I know that a lot of you smoke but
other people do not I think we should have a law
so we non smokers can't breathe your smoke
it smells bad and it is bad for you and other
people I think we should have this law

EXHIBIT 8
BUSINESS & INDUSTRY
March 19, 1985

thank you

I am cory Beatty
I am from Jefferson school I am in Mrs. Martin's
third grade Helena Montg 59601

I think there should be
smoking in smokers places, and non smoking places
because the ones who do not smoke don't breath
it in. some time people die because they
smoked. I think smoking is bad for you.
We should make it a law House Bill
183

EXHIBIT 8
BUSINESS & INDUSTRY
March 19, 1985

Thank you

My name is Adam Lucas and I am from Helena
MT I go to Jefferson school. third grade

I don't think people should smoke in public places
except in designated areas because it can harm
lives and give people cancer. I hope all you
out there don't smoke.

Please note for HB, 183,

EXHIBIT 8
BUSINESS & INDUSTRY
March 19, 1985

Thank
you

59601

For the no smoking in designated areas, I say that people should not smoke in public places unless it is a bar, bathroom or designated areas. Other people have to breathe your smoke.

If they don't get the smoking law passed you should at least ask the people around you. For example if you said mind if I smoke and they said please don't you might see some one take a cigar right out of there mouth right then and there. This is why I think people should not smoke in designated areas.

EXHIBIT 8
BUSINESS & INDUSTRY
March 19, 1985

Thank you

Hello my name is Yolanda Lucas and I'm in Mrs. Manoghan's third grade class from Jefferson School in Helena, Montana.

I think people should not be able to smoke in no smoking areas. For one reason people around a person that is smoking can breathe the smoke and might get real sick. And another reason is that the people that are smoking can get lung cancer or any other kind of cancer. So see what smoking can really do to you! And for the people that do smoke that are in public places just might stop smoking and all of you just might save there lives! So please if you want whats good for you please don't smoke.

EXHIBIT 8
BUSINESS & INDUSTRY
March 19, 1985

Thankyou very much

My name is Tara Lyons I am from Jefferson School Helena Mont.

I think there should be no smoking places. Because it is bad for your health and heart. When you walk in a place breath fresh air instead of smoke. People think these things are not harmful and they are. People have got to understand that they should vote for no smoking in no smoking places. Like the Charlie Rose painting pretty soon they will have to cover it with plastic. And so thats why I think there should be no smoking in no smoking places. HB 183, Thank You

EXHIBIT 8
BUSINESS & INDUSTRY
March 19, 1985

I am TORY Wisemas 3rd grad Jefferson school Helena M.t. I think smoking should not be allowed becose its very bad stuff I donot like it at all and it can kill pepol that dont smoke becose if thay have body in the family that smoke in that smoke thay breath it in and wen it gets to the lungs I should know my mom smokes and it bugs me and wenspend a lot of money and that is way I think ther should be no smoking except in no smoking Areas

EXHIBIT 8
BUSINESS & INDUSTRY
March 19, 1985

Thank
you

I am

Patrick Nageem third - grade
Manahan Jefferson School Helena
Montana

Pat

Jan. 10, 1985.

I think there should
be no smoking in public areas
because it is bad for your health.
it is also bad for your lungs. it
can also give a person lung disease
because it can bother another
person. it can also cause people
to die. and that's why I think
there should be no smoking. it can
also cause heart cancer. thank
you House bill 183. thank you

EXHIBIT 8

BUSINESS & INDUSTRY

March 19, 1985

Hi my Name is Donelle Lovely Jeffersons.
Helena, Mt. Mrs. Managhans 3rd grade

I'm for this Bill 183. Because if you go into a
restaurant and there is a no smoking sign and people
around you are smoking. It bugs me because the
smoke bothers my eyes. I don't like to breathe there smoke.
The people around you are smoking in your face it might
bother you it bothers me. alot. If you smoke you could ruin
your lungs.

And I want you to vote for this bill.

Thank you

EXHIBIT 8

BUSINESS & INDUSTRY

March 19, 1985

My name is Tam Dempsey From Helena
Montana Jefferson School 3rd grade

I think smoking is bad for your health
because of the smoke it smells bad
I hope people will stop smoking because other
people don't like it I think that stores should stop
selling cigarettes They are not good for you
I think that people should not smoke any more
if I smoked I would stop because other people
don't like it except the Indians making Areda bill

thank you

EXHIBIT 8
BUSINESS & INDUSTRY
March 19, 1985

I'm Francois Flippen and I'm in third
grade Helena Montana Jefferson school

I'm here to talk about
the no smoking Bill 183

I think there should be no smoking
because I heard of a man who died of
cancer I heard a man saying that smoking
is terrific And when I thought about it
I thought of something else
that it won't be terrific in your
grade

thank you

EXHIBIT 8
BUSINESS & INDUSTRY
March 19, 1985

EXHIBIT 8
BUSINESS & INDUSTRY
March 19, 1985

Good morning, Chairperson Halligan and
members of the committee,

I'm Jason Carpenter. I'm a sixth grader
at Jefferson School in H. Allen. I want House
Bill 183 to pass because when I go to a
restaurant I want a no smoking section
I don't want to breathe in the smoke
and it stinks. When I have to breathe
in smoke I get sick. Thank you

Jason Carpenter

Chairperson Halligan and members of the committee. I am a sixth grader in Helena Montana my name is Todd Hudson. I feel strongly about H B 183 because I am allergic to smoke. I also have asthma. Smoke irritates my eyes and my stomach hurts. Short amounts of time are just as bad as long periods. It isn't worth eating in a restaurant if it's full of smoke.

70 percent of the people in Montana do not smoke. 30 percent do smoke; The majority doesn't. In a democracy the majority usually rules.

Studies show that second-hand smoke is worse than the smoke smokers inhale. Compared to the smoke directly inhaled there is twice as much tar and nicotine from the end of a burning cigarette five times as much carbon monoxide and 46 times as much ammonia. It also forces blood pressure up and makes the heart beat faster.

Please vote for H B 183

Thank you

Good morning a Chairperson Holligan
and members of the committee My name
is Jessica Lowe and I'm a 5TH grader
at Jefferson school. I would like you
to vote for this bill because when
a person has to breath another
persons smoke, they also have to breath
nicotine and other things. Which leads
to a lot of problems. And a lot of
people hate breathing it in. Thank
you.

Jessica
Lowe

EXHIBIT 8
BUSINESS & INDUSTRY
March 19, 1985

Morning Chairperson
Good ~~Afternoon~~ ~~Mr~~ Halligan and Members of the Committee
My name is Wendy Hulet. I'm a sixth grade student at Jefferson School, here in Tulsa.

I am interested in House Bill #183 because I think that if people wanted to breathe in second hand smoke, then they would smoke themselves.

Some people, such as I, have allergies to cigarette smoke. These people want to be able to relax in a nice restaurant, with nice food without getting upset stomachs, or headaches from cigarette smoke. People that are affected from cigarette smoke could go to another restaurant to eat, but that would not only upset us, because that is our favorite place to eat, but it could also make the restaurant owner upset because he/she would be losing his/her customers.

People who smoke, have a larger chance of lung cancer, and people who have been breathing second hand smoke all of their lives do also.

We don't want to tell people to stop smoking, but asking to please don't smoke in ~~restaurants~~ restaurants near people who are affected by cigarette smoke. It is only two-to-three hours at the most without smoking a cigarette, so with that in mind they could just wait until they left the restaurant before they smoke.

Thank-you for your attention.

EXHIBIT 8
BUSINESS & INDUSTRY
March 19, 1985

Wendy Hulet

Good morning Mr. Chair person Halligan and members of the committee. My name is Brian Curtiss. I'm a fifth grader at Jefferson school. I want you to vote for H.B. 183 because a study found that the more smoke gives of smokers found four times the expected risk of developing lung cancer. Thirty five states have laws that limit smoking. 33-45% more work days are lost by smokers than people who never smoked. Thank you for letting me talk.

EXHIBIT 8
BUSINESS & INDUSTRY
March 19, 1985

Brian Curtiss

Good morning chair person Halligan
and members of the committee. My
name is Erika Rasmussen and I am
in the fifth grade at Jefferson school in
Helena. I would like for you to vote
for house bill 83 because I don't
think it's fair for nonsmokers to have
to breathe in the smokers smoke.

Second hand smoke is almost as
harmful to nonsmokers as it is to
the smoker. I don't think it's that
much fun to go to restaurant or a
grocery store & else's smoke. What some
places call a nonsmoking area is just
a little space and the smoke still gets
over to me. I thank you for letting me
speak.

EXHIBIT 8
BUSINESS & INDUSTRY
March 19, 1985

Erika Rasmussen

To
breathe
someone's

Good morning

Chairpersons Halligan and members of the committee. My name is Jair Drooger. I am in the fifth grade at Jefferson School here in Helena. I would like you to vote for House Bill 183. I feel strongly about this bill because I think that nonsmokers should have the right to breathe clean air and that each public place should at least have a non smoking area reserved for nonsmokers. Over 90 percent of lung cancers occur in smokers. I hope you feel the same way & I would appreciate if you would vote for H.B. 183

EXHIBIT 8
BUSINESS & INDUSTRY
March 19, 1985

Thank you

Jair Drooger

Good Morning,

Chairperson Holligan and members of the committee. My name is Lindi Flansburg, I go to Jefferson School in Helena. When people go to a restaurant or any other public facility, people want to enjoy what they are there for, not to breath in someone else's cigarette smoke.

About three-fourths of the nicotine in a cigarette ends up in the air for other people to breath when only a quarter enters a smokers' body.

When a study in Japan was done they found they found that the non-smoking members of a family faced four times the expected risk of developing lung cancer. Please vote yes for HB 183. Thank-you for your time.

EXHIBIT 8
BUSINESS & INDUSTRY
March 19, 1985

Lindi Flansburg

♡♡

Goodmorning Chairperson Halligan
and members of the committee.

My name is Tash Miles I am a sixth
grader at Jefferson School in Helena,
Montana. My class and I are trying
to pass the bill to have a no smoking
area in public places. I feel strongly
about this bill because if I go to
a department store that allows
smoking I usually have to leave to
make me feel better.

50% of people smoke in the world.
I know we can't stop people from
smoking all together but at least
we can have a no smoking area when
we go.

People don't realize that when
they smoke they hurt their
lungs very badly and they also hurt
others.

EXHIBIT 8
BUSINESS & INDUSTRY
March 19, 1985

Thank you
Tash Miles

Good morning. Chairperson Halligan and members of the committee,

My name is Joshua Lewis, I am a fifth grader at Jefferson School.

We are working on a smoking bill it is House Bill #183. I think it should be passed, not just for my benefits, but for other non-smokers benefits.

The bill will mean that there will be no-smoking-areas in all public facilities.

The bill will not permit smokers from smoking in public facilities, but it will let them smoke in assigned smoking areas.

EXHIBIT 8
BUSINESS & INDUSTRY
March 19, 1985

Thank you for letting me speak.

Joshua
Lewis

Good morning Chairperson Halligan & members
of the Committee.

My name is Kristi Keeler. I'm a
sixth grader at Jefferson school in Helena.

I don't like cigarette smoking
because I breathe in that smoke.

Second hand smoke leads to
Heart disease, Lung Cancer, Chronic Bronchitis &
Emphysema.

This bill is not saying that people
have to quit smoking, we just don't want
to breathe in their smoke.

EXHIBIT 8
BUSINESS & INDUSTRY
March 19, 1985

Thank-you,

Kristi Keeler

Halligan
Good morning - Chairperson ~~Heenan~~ and
members of the committee,

I am Geoff Unger. I am a 6th grader at
Jefferson School. I am trying to talk you into
voting for House Bill 183. I think Montana is
falling behind in some bills. First of all we
could really catch up in one area that is
the Clean indoor air act Rules. For instance
Minnesota already beats us to it but we
could catch up. What we're doing isn't to
keep people from stop smoking we just don't
want them to smoke around us. Each public
place should provide at least one area for
non-smokers. That's why I want you to vote
for House Bill 183.

EXHIBIT 8
BUSINESS & INDUSTRY
March 19, 1985

Thanks for taking the time to listen.

Geoff Unger

My name is Terry Odegard. For the past three years I have resided at 736 South California here in Helena.

As a private citizen and as a business owner, I urge the committee to support this bill.

As a private citizen and a non-smoker, I feel that the non-smoker has no rights to a smoke free environment in public places. This bill gives the non-smoker a right to that free environment and at the same time it preserves the right of the smoker.

As a businessman and the owner of the Craft Haus here in Helena, which is a 4,000 sq. ft. specialty shop, I do not feel that this bill will infringe upon my ability to carry on business in a prudent manner.

I have had the courage to recommend no smoking in my store and I have not encountered any adverse effects.

I do feel that most businesses do care but are reluctant to act due to fear of adverse effects. That is why we need to enact HB 183.

Again I would ask the Committee for their support of this Bill.

EXHIBIT 9
BUSINESS & INDUSTRY
March 19, 1985

NAME: Leonard Bates DATE: 3-19-85

ADDRESS: RR 2254, Great Falls

PHONE: 453-6169

REPRESENTING WHOM? Maintenance Society for Respiratory Care

APPEARING ON WHICH PROPOSAL: HB 183

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

EXHIBIT 10
BUSINESS & INDUSTRY
March 19, 1985

DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES



TED SCHWINDEN, GOVERNOR

COGSWELL BUILDING

STATE OF MONTANA

HELENA, MONTANA 59620

March 19, 1985

Testimony Before the Senate Committee on Business and Industry

House Bill 183

(Designated Non-Smoking Areas Required for All Enclosed Public Places)

Mr. Chairman and members of this committee: I am Robert W. Moon, Health Education Consultant with the Division of Health Services and Medical Facilities of the State Department of Health and Environmental Sciences in order to enter into the record that the Department is supporting HB 183.

From a public health viewpoint, this represents an appropriate amendment to 50-40-104, the Montana Clean Indoor Air Act. Concerns over the health effects from passive cigarette smoke are hardly a myth, as some tobacco advertisements suggest. In reality, passive cigarette smoke is likely the most dangerous pollutant we face today.

Passive smoking does affect public health. New research shows that non-smokers are susceptible to smoke-related health problems. Approximately two-thirds of the smoke from a cigarette goes into the environment. Since most of the smoke is from the tip of the cigarette, a tendency exists for higher concentrations of more noxious compounds to be emitted than the smoke inhaled by the smoker. As a result, air with high levels of substances like carbon monoxide elevates levels of this compound within the blood of persons inhaling this air. Carbon monoxide is just one compound of tobacco smoke which is a very complex mixture of gases, liquids and particles.

The Department has encouraged its local affiliates to be prepared to manage complaints by investigating directly. However, the act was intended to promote the health of the public, rather than to support strict enforcement. Much of the success of the act will be measured by the non-smokers taking a firmer stand to protect the air they breathe.

We have recently developed a policy that the Cogswell Building is a NO-SMOKING AREA except as permitted in designated areas.

Hopefully, the 1985 Legislature will see the value of this amendment and fully support the measure.

EXHIBIT 11
BUSINESS & INDUSTRY
March 19, 1985

RWM/war-36

Policy

It is the policy of this agency that the Cogswell Building is a no-smoking area except as permitted only in designated areas. This policy is in compliance with the guidelines established by the Department of Administration and in conjunction with the Montana Clean Indoor Air Act.

Procedures

Signs will be posted at all entrances to the building indicating that "NO SMOKING IS PERMITTED EXCEPT IN DESIGNATED AREAS."

The permitted areas are:

- The lounge area at the north end of the third floor corridor.
- The Broadway entry area on the second floor.
- The designated portion of the coffee shop on the first floor.
- Private offices, at the discretion of the persons occupying them. (Private offices are offices with four floor-to-ceiling walls. Desk spaces surrounded by dividers are not private offices.)
- Conference rooms at the discretion of those in attendance.

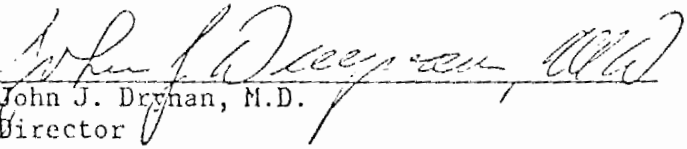
(Hallways are no-smoking areas.)

Enforcement

It is the responsibility of the agency management to insure that this policy is enforced.

Violations of this policy may result in disciplinary actions being taken.

Approved:


John J. Drynan, M.D.
Director


Date

Involuntary Smoking and Incidence of Respiratory Illness During the First Year of Life

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From the Department of Pediatrics, George Washington University School of Medicine and Children's Hospital National Medical Center, Washington, DC

ABSTRACT. A prospective study of 1,144 infants and their families was performed. Smoking and family histories were evaluated with respect to the incidence of lower respiratory disease during the first year of life. It was found that (1) tracheitis and bronchitis occurred significantly more frequently in infants exposed to cigarette smoke in the home, (2) maternal smoking imposed greater risks upon the infant than paternal smoking, (3) occurrence of neither tracheitis nor bronchitis showed a consistent relationship to the number of cigarettes smoked, (4) a family history that was positive for respiratory illness (chronic cough or bronchitis) significantly influenced the incidence of bronchitis, (5) too few cases of laryngitis and pneumonia were seen to warrant any opinions regarding the adverse influence of either smoking or a family history that was positive for respiratory illness, and (6) occurrence of bronchiolitis was not affected by the presence of a smoker nor influenced by a family history that was positive for respiratory illness. It is concluded that passive smoking is dangerous to the health of infants and that infants born to families with a history that is positive for respiratory illness (chronic cough or bronchitis) are at risk of developing bronchitis. *Pediatrics* 1985;75:594-597; *respiratory disease, smoking, infants, tracheitis, bronchitis*.

On Jan 11, 1964, the Surgeon General's Advisory Committee on Smoking and Health concluded: "Cigarette smoking is a health hazard of sufficient importance in the United States to warrant appropriate remedial action."¹ Since that time, abundant evidence has been collected demonstrating the adverse affect on the health of nonsmokers exposed

to cigarette smoke.²⁻⁵ More recently, there has been considerable interest in the health of children in families with chronic smokers.⁶⁻⁹ The deleterious effects of maternal smoking on the fetus and newborn baby have been demonstrated.¹⁰ Moreover, several studies^{11,12} have shown that exposure to cigarette smoke during the first year of life significantly increases an infant's risk of developing pneumonia or bronchitis.^{11,12} Additionally, some studies⁹ have suggested that passively inhaled cigarette smoke can lead to the development of recurrent respiratory syndromes such as chronic infections, bronchopulmonary disease, and cough.

The adverse influence of family factors on the incidence of lower respiratory illness during the first year of life has been well documented.¹² Evidence suggests that genetic factors often are significant in the development of asthma and/or bronchitis with wheezing (wheezy bronchitis). The effect of parental smoking superimposed on this type of genetic predisposition needs further clarification.

This study was designed to evaluate prospectively the effects of parental smoking and parental and sibling respiratory symptoms, including chronic cough, asthma, and bronchitis, on the incidence of lower respiratory illness during the first year of life.

METHOD

This study was conducted from 1976 through 1981 among patients in the pediatric practice of the first four authors. All newborns seen by our group pediatric practice for their first well baby examination (age 2 weeks to 1 month) were enrolled in this study. The office is located in a suburb approximately 30 miles from Washington, DC. Nearly all of the households represented live in a fairly homogeneous suburb with the following demographic

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characteristics: (1) population by race: white, 89%; black, 5%; Oriental, 5%; other, 1%; (2) population by age: children aged 17 years or less, 27%; adults aged 18 to 64 years, 68%; adults aged 65 years or more, 5%; (3) total population of 56,424 (all within urbanized areas); (4) population by sex: females, 53%; males, 47%; (5) population aged 1 year or less, 2%; (6) median income of \$34,700 per household. In our group private practice, there are 7,000 families enrolled with 11,500 children represented. The demographic characteristics of our practice population match those of the suburb described. Seventy families (1% of patient population) receiving Medicaid are enrolled in our practice.

On admission to the study, each patient had a stamp affixed to his chart to record a detailed family respiratory history (chronic cough, chronic bronchitis, asthma, other lower respiratory tract symptoms) and smoking history (father, mother, and others in household). All occurrences of lower respiratory tract infection (laryngitis, epiglottitis, laryngotracheobronchitis [croup], tracheitis, bronchitis, bronchiolitis, and pneumonia) for which there was an office visit during the infant's first year of life were recorded. No attempt was made to study the possible effect of other neonatal problems (hyaline membrane disease, meconium aspiration, infections) on the development of lower respiratory tract disease.

For the purposes of our study, lower respiratory tract infections were defined clinically (according to Moffet¹³) as follows: (1) laryngitis was recognized by hoarseness and laryngotracheobronchitis (croup) was characterized by brassy cough and inspiratory crowing; (2) epiglottitis was defined by the visualization of a red and edematous epiglottis associated with the pooling of oropharyngeal secretions and hoarseness; (3) tracheitis was characterized by brassy cough (without hoarseness) and coarse breath sounds (but without rales, rhonchi, or wheezing); (4) bronchitis was defined by the association of cough with coarse rhonchi that clear with coughing (with or without wheezing) but without audible rales (for the purposes of this study rhonchi are defined as coarse, moist popping

sounds, usually occurring on inspiration; rales are fine popping sounds characteristically occurring at the end of inspiration); (5) bronchiolitis was characterized by tachypnea, poor air exchange, low diaphragms, clinical evidence of expiratory difficulty, and coarse inspiratory or expiratory breath sounds throughout the chest (this condition only was recognized in children 2 years of age or less); and (6) pneumonia was diagnosed on the basis of fine end-inspiratory rales (frequently associated with fever and cough) with or without roentgenographic confirmation.

Children lost to follow-up during their first year were excluded from the study. The data were analyzed with the assistance of the Research Division of the Children's Hospital National Medical Center in Washington, DC. The occurrence of each respiratory disease in the study population was tabulated and expressed as incidence (number of occurrences in first year of life per 1,000 infants).

RESULTS

A total of 1,420 infants and their families qualified for the study. During the course of the investigation, 276 patients (24%) were lost to follow-up; 1,144 patients completed the entire year of surveillance and represent the study population. Of those, 731 (64%) were from "nonsmoking" families; 413 (36%) were from families with at least one smoker. Both father and mother smoked in 127 households (11%). The study population breakdown by smoking habit is shown in Table 1. No more than one infant per family was enrolled in the study. Correlation coefficients were calculated to estimate the strength of the relationship between family smoking and respiratory disease.

Tracheitis was 89% more frequent among infants exposed to household smokers (Pearson's correlation coefficient for tracheitis *v* smoking: $r = .06$, $P = .02$); bronchitis was 44% more frequent in households with smokers than in nonsmoking households. (Pearson's correlation coefficient for bronchitis *v* smoking: $r = .06$, $P = .02$).

Illnesses other than tracheitis and bronchitis

TABLE 1. Breakdown of Study Population Households by Smoking Habit*

Smoker	No Smoking	Cigarette Smoking				Cigar Smoking	Pipe Smoking	Totals
		Yes†	1-10/d	11-20/d	>20/d			
Mother	927 (81%)	96 (8%)	12 (1%)	97 (9%)	12 (1%)	...	...	217 (19%)
Father	821 (72%)	110 (10%)	13 (1%)	116 (10%)	45 (4%)	13 (1%)	26 (2%)	323 (28%)
Totals‡	731 (64%)	...	...	...	...	...	...	413 (36%)

* Values are number of households; values in parentheses indicate percent of total households.

† Yes indicates smoker, but unknown amount.

‡ Totals represent total number of households and percent of households.

TABLE 2. Incidence of Respiratory Disease by Family Smoking History*

Type of Family	Bronchitis (n = 95)	Tracheitis (n = 32)	Laryngitis (n = 6)	Croup (n = 40)	Pneumonia (n = 7)	Bronchiolitis (n = 42)
Nonsmokers	71.3	21.0	4.2	35.0	7.0	37.8
Smokers	102.6	39.6	7.0	35.0	4.7	35.0
Totals	83.0	28.0	5.2	35.0	6.1	36.7

* Incidence is reported as occurrences per 1,000 infants.

either were rare (laryngitis and pneumonia) or were not affected by the presence of a smoker (bronchiolitis). Epiglottitis was not diagnosed in the study population. None of the children studied had recurrent bouts of lower respiratory tract disease. The incidence of respiratory disease by smoking history is shown in Table 2.

Bronchitis occurred 44% more frequently in households in which the mother smoked (111) than in households in which the mother did not (77; $\chi^2 = 19.0$, $df = 8$, $P = .014$), but occurred only 10% more frequently in households in which the father was the smoker (88 v 80; $\chi^2 = 15.4$, $df = 12$, $P = NS$). Similarly, tracheitis occurred 92% more frequently (46 v 24; $\chi^2 = 16.5$, $df = 8$, $P = .036$) in households in which the mother smoked as opposed to a 7% increase (30 v 28; $\chi^2 = 11.8$, $df = 12$, $P = NS$) in households in which the father smoked.

Approximately 40% of the parents who smoked failed to disclose the amount they smoked. Consequently, analysis of the effect of "smoke dose" on respiratory illness was restricted to the 121 families in whom amount of maternal smoking was documented. Of the 217 mothers in the study population who smoked, 12 (5.5%) reported smoking more than one pack per day; 96 mothers (44.2%) admitted to smoking without specifying the amount. Occurrence of neither tracheitis nor bronchitis showed a consistent relationship to the number of cigarettes smoked. Analyses based on smoking of the mother or father all showed nonmonotonic relationships between number of cigarettes smoked and incidence of respiratory disease. For example, incidence of bronchitis among families in which the mother reported smoking more than one pack per day was actually somewhat lower than the incidence for mothers who smoked less than one pack per day. We noted no relationship between exposure to cigarette smoke and age of disease onset.

The relationship of family history of respiratory illness (chronic cough and bronchitis) also was found to influence the incidence of bronchitis in the children studied. A family history that was positive for respiratory disease was associated with twice the incidence of infant respiratory illness. Although a positive trend was noted with regard to occurrence of tracheitis and family history of respiratory disease, the differences were not statisti-

TABLE 3. Incidence of Respiratory Illness as Function of Family History*

	Tracheitis		Bronchitis	
	No (1,112)	Yes (32)	No (1,049)	Yes (95)
Family history of:				
Chronic cough (n = 30)	20	30	90†	160
Chronic bronchitis (n = 106)	30	40	80†	160
Asthma (n = 236)	30	40	90	90
Other respiratory illness (n = 15)	30	0	90	180

* Incidence rounded to nearest 5 and expressed as occurrences per 1,000 infants. Absolute number of occurrences is shown in parentheses.

† Significance by χ^2 : $P = .01$.

cally significant. A family history of asthma had no documented effect on the incidence of bronchitis or tracheitis in the study population. The incidence of respiratory illness as a function of family history is shown in Table 3. The numbers of children who had both family history of respiratory disease and parents who smoked were too low for statistical analysis of their interaction on occurrence of respiratory disease.

DISCUSSION

Morbidity and mortality statistics reveal an increasing incidence of pneumonia and bronchitis in infants less than 1 year of age. Although mortality from these conditions has decreased significantly in the past 30 years in most age groups, infants continue to suffer and die in disproportion to the rest of the pediatric population.¹⁴ Several studies^{6,9,11} have documented the relationship between parental smoking and respiratory illness in infants. Leeder et al,¹² studying a population of 2,122 children, in Harrow, England, reported a significant increase in lower respiratory tract infections in infants exposed to cigarette smoke. Colley et al¹¹ found that exposure to cigarette smoke in the first year of life doubled the risk of acquiring pneumonia or bronchitis. Also, there is ample evidence that later problems may occur. Leeder and colleagues¹⁵ demonstrated that ventilatory function was impaired at age 5 years in children who had had pneumonia or bronchitis during their first year of

life. Dutau and Corberand⁹ reported that apart from any infectious disease that can be passed to the infant by parents who smoke, passively inhaled cigarette smoke can lead to the development of chronic respiratory syndromes. Children in such families may become the future patients with chronic bronchitis.

Our study has demonstrated the adverse effect of passive inhalation of cigarette smoke during the first year of life. Although our data confirm the findings of others, previous reports have quantified lower respiratory infections from records of hospital admissions and/or parental questionnaires. These reports are based on selected populations with all the inherent biases of retrospective studies. In our study, the large number of patients enrolled, the prospective nature of the surveillance, and the in-office diagnosis by four trained physicians minimize such biases.

The effect of maternal smoking is striking and perhaps best explained by the fact that the mother, more often than the father, remained at home with the child. The incidence of "other" smokers in the household was infrequent and often included grandparents who lived with the family. The small number of other smokers in our study does not allow accurate statistical interpretation.

The significant difference in effects of the mother v the father smoking and the attendant respiratory problems in their children suggests that the duration of exposure to cigarette smoke, rather than the presence of a smoker in the house, is an important factor in infant-related respiratory disease. However, we failed to demonstrate a statistically significant relationship between the incidence of tracheitis and bronchitis and the number of cigarettes smoked. This failure may be the result of the large number of heavy smokers failing to specify the amount smoked. A surprisingly small number of mothers reported smoking more than one pack per day.

Leeder et al¹⁵ have reported that a family history that is positive for chronic cough, asthma, and "wheezy bronchitis" placed infants at risk for the development of lower respiratory tract infections. Several studies^{15,16} have shown that genetic factors associated with bronchitis and pneumonia in the first year of life may result in predisposition to wheezing in later childhood. Although much evidence suggests that genetic factors often are significant in the development of asthma and chronic

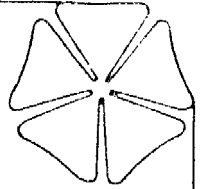
bronchitis, damage to the airways caused by bronchitis and pneumonia in early childhood also may make children more susceptible to subsequent wheezing and/or chronic cough.¹⁷ We have demonstrated a relationship between a family history that is positive for lower respiratory tract illness and the occurrence of bronchitis in infancy. A family history of both chronic cough and chronic bronchitis was positively correlated with an increased incidence of bronchitis in the infants studied. We were unable to distinguish between environmental and genetic factors influencing this association. From the results of our study and on the basis of the literature cited, we conclude that passive smoking is dangerous to the health of infants.

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MISSOULA CITY-COUNTY HEALTH DEPARTMENT

301 West Alder • Missoula, Montana 59802 • Ph (406) 721-5700



March 19, 1985

EXHIBIT 13
BUSINESS & INDUSTRY
March 19, 1985

MEMO TO: Senator Mike Halligan, Chairman, Senate Business and Industry
Committee

FROM: Dan Corti, Missoula City-County Health Department

SUBJECT: H.B. 183

I am Dan Corti, speaking on behalf of the Missoula City-County Health Department as a proponent of House Bill 183.

The benefits to public health which can be attained by enactment of this bill are well documented. The dangers of passive smoking are well documented.

I am not here to persuade you of the need for this type of legislation, as I feel you are already convinced of the need. I am here to request your consideration of how exactly this act is going to be enforced.

As a practical matter, enforcement in non-licensed establishments would be on a complaint only basis. The licensed establishments (restaurants) could be looked at during regular inspections and dealt with accordingly.

The area in which the Missoula Health Department recommends modification of this act is Section 107, Subsection (3). To require a no-smoking section in a room seating 7 people is to have a requirement which serves little purpose. As a minimum, our Department recommends an exemption for establishments seating 15 or fewer members of the public or having 225 square feet or less seating area.

The increase in the number of seats allowed under the exemption would enable establishments to designate a realistic no-smoking area. The problems associated with enforcement of this act would be somewhat alleviated if establishment owners perceived that a benefit would result. To require a no-smoking area in 95 square feet of floor space is ineffective, and expansion of the area or seating limitation exemption would be reasonable in light of ease of enforcement and protection of public health.



AMERICAN LUNG ASSOCIATION OF MONTANA

Christmas Seal Bldg. — 825 Helena Ave.
Helena, MT 59601 — Ph. 442-6556

EARL W. THOMAS
EXECUTIVE DIRECTOR

March 19, 1985

EXHIBIT 14
BUSINESS & INDUSTRY
March 19, 1985

Mr. Chairman and Members of this Committee:

I am Earl Thomas, Executive Director of the American Lung Association of Montana.

We support HB183 because it will provide smoke-free areas which we feel is the wish of the majority of Montanans. There are many studies that have been done that show that smoking is harmful to the non-smoker. In the interest of time I will cite only one such study at this time: "Involuntary Smoking and Incidence of Respiratory Illness During the First Year of Life." 1144 infants and families were followed at the George Washington University School of Medicine for one year and it was found:

1. Tracheitis and bronchitis occurred significantly more frequently in infants exposed to cigarette smoking in the home
2. Maternal smoking imposed greater risks than paternal smoking

We have received letters from three physicians who support this bill because of the affect smoking has on their patients. These are provided for your information.

I believe you have received a copy of a letter from Ed Ternes, Manager of the Super 8 Motel stating that 31 of their 82 rooms are non-smoking. I have with me a copy of a letter from Mr. Hainline, President of the 4-B-s Restaurants. He states that no-smoking areas in their restaurants have not created a problem; in fact, they are considering expanding the areas. Their motel also has smoke free rooms.

We know of several offices who have instituted smoke-free areas in the workplace and have found it to be very satisfactory.

One of the attached letters is signed by 26 employees of TW Services in Yellowstone Park, who support HB183 because they want smokeless air during office hours.

We ask you to support HB183 -- it will not raise taxes, it does not ask smokers not to smoke, it simply provides that non-smokers will have their share of the air. Give us a choice -- the airlines did and you can see what happened there. The last time I flew, 17 out of 24 rows were non-smokers.

Thank you.



EXHIBIT 14
BUSINESS & INDUSTRY
March 19, 1985

SUPER 8 MOTEL

(406) 443-2450

• 2201 Eleventh Ave. (Capital Exit)

• Helena, Montana 59601

The Helena Super 8 motel presently has 31 of its 52 rooms designated as non-smoking rooms. The response for our non-smoking rooms has been overwhelming. Often times the demand for non-smoking rooms has been such that we have not had enough such rooms.

Manager
Ed Turner

America's Finest Economy Lodging



TW SERVICES, INC.
YELLOWSTONE PARK DIVISION

EXHIBIT 14
BUSINESS & INDUSTRY
March 19, 1985

Mr. E. W. Thomas, Executive Director
American Lung Association of Montana
825 Helena Avenue
Helena, Montana 59601

Dear Mr. Thomas:

We, the undersigned, of TW Services, Inc./Yellowstone Park Division support House Bill 183, the "Indoor Smoking Act" that is currently under discussion by the Senate Business and Industry Committee.

We have offices in both Wyoming and Montana and we as "non-smokers" want to have clean, smokeless air to breathe during office hours. Please pass this bill and make Montana another progressive state in recognizing "non-smokers" rights.

Thank you.

Karen Karpowich

Lisa Wang

Randy Ingersoll

Diane Lindberg

Jeffrey Kainer

Jon Dahlheim

Kate McInnis

Deane O'Brien

Carol Anderson

William A. Gillingham

Peg Kueh

Paul P. Digne

Rick L. Okey

Dave Fisher

Dolli Kellar

Kathy March

TK Ramsey

Na Hensleigh

Heather Hellebrandt

Golden Lefkowitz

Julia Malwitz

James Fredman

WSE Fuller

John Armstrong

AP Hozlowski



restaurants, inc.

W. E. HAINLINE, JR.
President

EXHIBIT 14
BUSINESS & INDUSTRY
March 19, 1985

March 14, 1985

Senator Mike Halligan
1625 Highland
Helena, MT 59601

Dear Senator Halligan:

Concerning House Bill 183, we have found public acceptance and appreciation in the designated no smoking areas. It has created virtually no problems. We are considering expanding the no smoking areas in our Restaurants.

At the 4 B's Inn Motel, there are 25 no smoking rooms and the Manager indicates they were generally the first in demand.

Sincerely,

A handwritten signature in cursive script that reads "W.E. Hainline, Jr.".

W.E. Hainline, Jr.

WEH:lk





The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

REPRESENTATIVE JANET MOORE

HOUSE DISTRICT 65

HELENA ADDRESS:
CAPITOL STATION
P.O. BOX 94
HELENA, MONTANA 59620
PHONE: (406) 444-4800

COMMITTEES:
FISH AND GAME
NATURAL RESOURCES
STATE ADMINISTRATION

HOME ADDRESS:
P.O. BOX 1017
SWAN VALLEY
CONDON, MONTANA 59826
PHONE: (406) 754-2473

March 20, 1985

Senator Mike Halligan, Chairman
and Members of Senate Business & Industry Committee

Dear Mike and Committee Members:

Unfortunately, I could not testify before you on House Bill 183 in your Committee yesterday. I was locked in on our House State Administration Committee meeting since I am assigned to that Committee.

I hope this written testimony in favor of House Bill 183 is not too late to be considered before you vote. As you may know, after sitting in 3 smoke-filled, air tight House Committee rooms during the first 45 days of this session and suffering from a host of crazy physical problems, I finally discovered that I was "severely" allergic to tobacco smoke. Until I can get myself desensitized, my fellow Committee members and Representatives in the House are not smoking in my presence. I am sincerely humbled by their considerate action and am free of the terribly itchy rash; the red, swollen, itchy eyes, and the cough and head congestion. I've never felt better and have thanked everyone.

Very few Representatives feel terribly restricted from smoking because of my allergy and enjoy getting up to walk into the hallways to smoke during our breaks. Also, some of our smokers actually voted for HB 183 because they felt it was only fair we have designated smoking areas in our House because this is done in most businesses today.

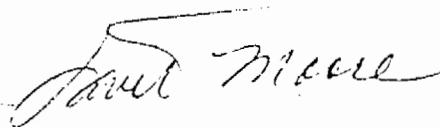
One Representative was particularly concerned about smoke residue that is building on the House Charlie Russell portrait valued at \$3 million.

Senator Mike Harrigan, Chairman
and Members of Senate Business & Industry Committee
March 20, 1985
Page 2

I believe the time is right to consider the importance of non-smokers lungs, our valuable, treasured art, and people with severe allergies like me because we have turned the corner on this issue, in part, already.

Please take this testimony to heart and vote yes on HB 183.

Thanks a million!

A handwritten signature in cursive script, appearing to read "Janet Moore".

Representative Janet Moore

JM:bb

NAME: Douglas B. Olson DATE: March 19 1985

ADDRESS: PO Box 1695 Helena MT

PHONE: 443-2207

REPRESENTING WHOM? self

APPEARING ON WHICH PROPOSAL: HB 183

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: Montana State Constitution guarantees
right of its citizens to a clean and healthful environment
(Art II, §3) It further charges the legislature to
provide for the administration and enforcement of
this duty and to provide adequate remedies (Art IX, §1).
Health studies are continuing to show the dangers of
second-hand smoking of tobacco smoke on heart and respiratory
systems. HB 183 offers the legislature the opportunity
to discharge its duty to guarantee a clean and healthful
environment by requiring enclosed public places to
provide some non-smoking areas. It may not be
the ultimate solution to this problem but it is a
good start.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

EXHIBIT 16
BUSINESS & INDUSTRY
March 19, 1985

Ann Krebill
Testimony in Support of
House Bill 183

EXHIBIT 17
BUSINESS & INDUSTRY
March 19, 1985

- Is it free-enterprise to regulate the number of liquor licenses?
- Is it free-enterprise to regulate what temperature food is stored and served?
- Is it free-enterprise to require that all public places have a restroom?
- Is it free-enterprise to allow only certain colors and sizes of signs on the exterior of a building?
- And is the question of free-enterprise any different when you consider segregating smoking and nonsmoking areas?

OTHER STATES:

Legislation protecting non-smokers began the end of the XIX Century and early XX Century.

Nine States, since 1970, have passed non-smoking legislation.

Minnesota passed a similar bill to House Bill 183 in 1975 and has had insignificant problems.

FREE-ENTERPRISE ARGUMENT:

A seemingly good argument that has arisen in the debate is that government does not have the right to tell a private business what it can and cannot do. However this argument is inconsistent with any government regulation. Government has the responsibility to regulate business when it is to protect the welfare of the public. Regulations have been established to protect the citizens from food poisoning, air pollution, noise pollution, and other discomforting problems. When the public health is involved, the government should maintain safety standards.

Since there are private businesses which will refuse to protect the public, government regulation through legislation is needed.

PUBLIC HEALTH AND THE GOVERNMENT:

It is the Legislature's obligation to adopt laws reflecting citizens concerns. Since the late 1960's there has been an increased awareness of the hazards of smoking. Several studies have indicated the threat of passive smoke to non-smokers. Because of the revised research and knowledge of the hazards of passive smoke, there is a need for legislative action, such as House Bill 183.

LEGISLATION IS WARRANTED:

In an article on smoking legislation (Environmental Affairs, "Smoking Affairs Legislation" 1978, Vol 6:345, p. 351) it was stated that the environmental aspects of smoking are so complex because of a set of tradeoffs, that it is best decided by legislative bodies.

A recent court case in New Jersey reestablished the growing concern by stating:

"The evidence is clear and overwhelming. Cigarette smoke contaminates and pollutes the air, creating a health hazard not merely to the smoker but to all those around her who must rely on the same air supply. The right of an individual does not include the right to jeopardize the health of those who must remain around him or her in order to properly perform the duty of their job." *Shrimp v New Jersey Bell Telephone*
145 NJ Super 516,368 A2d 408
(NJ Sup Ct, 77)

CONCLUSION:

It is not the intention of House Bill 183 to deny the smoker a right to smoke, as this bill does not try to ban all smoking. It merely attempts to secure an equitable right to the non-smoker by segregating public areas, whenever possible.

The legislature intervenes when it is necessary to ensure public health and safety. I urge the committee to give House Bill 183 a "DO PASS" recommendation.

Thank you for the consideration!

Ann Krebill
Concerned citizen
March 19, 1983

TESTIMONY HB 183

My name is Eileen Robbins. I am speaking on behalf of myself. I support HB 183 and urge you to give it a "do pass" recommendation.

I believe it is important to all of us to designate non-smoking areas in enclosed public places.

I have bronchial asthma. Bronchial asthma is a common form of asthma due to hypersensitivity to an allergen. I am allergic to several environmental factors including: grass, cats, wood smoke, cigarette smoke, and several others. Instead of breaking out in hives or sneezing, I have difficulty breathing during exposure. My symptoms start with a tightness of the chest, followed by shortness of breath and wheezing. At this point I must medicate myself or my breathing will become even more labored and inadequate to oxygenate the cells of my body.

As a precaution, I carry a medication inhaler with me at all times; I am dependent upon it to assist bronchial dilation to allow for adequate air exchange.

I feel it is unfair for me to have to breathe air that is contaminated by cigarette smoke and particulate matter when I am in an enclosed public place. My options are to medicate myself or immediately get out of the contaminated place. In most instances I medicate myself, but for every whiff from my inhaler I am subjecting my lungs to a strong drug just to counteract the air I'm breathing!

I have learned to put up with the several side effects from the anti-asthma drugs I take; however, I feel it would be advantageous to all of us if owners of establishments geared to public use would designate non-smoking areas.

Owners of establishments have been unwilling to designate non-smoking areas^{in the past} even when specifically asked by myself and others. HB 183 would require what should be common courtesy.

Respectfully submitted, 3/19/85
Eileen C. Robbins

(This sheet to be used by those testifying on a bill.)

NAME: DAVID LACKMAN DATE: March 19, 1985

ADDRESS: 1400 Winne Avenue, Helena, Montana 59601

PHONE: 443-3494

REPRESENTING WHOM? Montana Public Health Association (Legislative Lobbyist)

APPEARING ON WHICH PROPOSAL: HB 183 (Ellerd) Designated Non-smoking area
required for all enclosed public places. Senate Business and Industry/Old Supreme
Court Room 10:00 A.M. TUESDAY
DO YOU: SUPPORT? XXX AMEND? OPPOSE?

COMMENT: 1. One of the goals of our parent organization, The American Public
Health Association, is to work towards a non-smoking society in the United States
by the year 2000. This is our challenge too.

2. There is increasing evidence that inhalation of tobacco smoke in
enclosed spaces has the same deliterious effects as smoking itself. It is particularly
harmful to pregnant women; and to those suffering from emphysema, asthma and other
respiratory affilictions. There are on record 17,000 cases of lung cancer in non-
smokers who were exposed to tobacco smoke.

3. Tobacco smoke causes lung cancer, heart disease, emphysema; and in
pregnant women may result in fetal injury, premature birth, and lower birth-weight.

4. We request this legislature to do whatever is within its power to
reduce this serious threat to the health of our people.

ENACTMENT OF HB 183 would be a desireable step in this direction.

THANK YOU

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

*Mention Taxes if necessary
Desireability of a surtax on income.*

EXHIBIT 19
BUSINESS & INDUSTRY
March 19, 1985



City-County Building
P.O. Box 1723
Helena, Montana 59624
Telephone 406/443-1010

LEWIS AND CLARK COUNTY

Health Department

EXHIBIT 20
COMMENTS IN SUPPORT OF HOUSE BILL 183 BUSINESS & INDUSTRY
March 19, 1985

Claire Cantrell
Lewis and Clark City-County Health Department

The Lewis and Clark City-County Health Department strongly favors and supports the passage of HOUSE BILL 183 because it provides for the protection of the health of the nonsmoker by requiring the designation of nonsmoking areas in public places.

CURRENT LAW

The intent of the Montana Clean Indoor Air Act is to:

1. PROTECT THE HEALTH OF NONSMOKERS IN PUBLIC PLACES, and
2. TO PROVIDE FOR RESERVED AREAS IN SOME PUBLIC PLACES FOR THOSE WHO SMOKE

The problem is that the current law is not fulfilling its intent.

The present law only requires the posting of signs which tell whether an area is designated as all smoking or whether a nonsmoking area has been reserved.

The vast majority of public places have chosen to designate the entire area for smoking.

For example, of approximately 70 full menu restaurants in Helena, less than 10% have designated nonsmoking areas.

While this meets current regulations, it does not protect the health of nonsmokers in public places. The required designation of nonsmoking areas in 183 would correct this problem.

SECOND HAND SMOKE

Why is it important to provide nonsmoking areas?

Being in a smoke filled room is not only an irritant, but an actual threat to health. Research has shown that second-hand smoke can be as harmful, if not more harmful to the nonsmoker.

There are two kinds of smoke: mainstream smoke, which the smoker pulls through the mouthpiece of cigarette, cigar or pipe, and sidestream smoke, which goes directly into the air from the burning end.

Studies have shown that sidestream smoke, in comparison to mainstream smoke, contains:

- twice as much tar and nicotine
- three times as much 3-4 benzpyrene (a carcinogen)
- three times as much carbon monoxide, which robs the blood of oxygen
- fifty times as much ammonia, and
- elevated levels of a cadmium - one of the compounds that damages air sacs and cause emphysema.

Studies have also shown that after only thirty minutes in a smoke-filled room, the carbon monoxide level in the nonsmokers blood increases, as does the blood pressure and heart beat. This condition may result in adverse reactions from people with heart disease.

Tobacco smoke may cause an allergic reaction, asthmatic attack, and bring on chest pains. It will cause a reduction in exercise tolerance and may bring on a heart attack.

Children are particularly sensitive to the effects of side stream smoke. Respiratory problems are often directly proportional to the amount of smoke in the child's environment.

THE WORKSITE

Reports show nonsmokers have the following symptomatic effects when working near smokers:

- difficulty in working
- being forced to move from their desks
- eye irritation
- nasal irritation
- coughing
- sore throat or sneezing
- exacerbation of preexisting pulmonary condition
- aggravation of a cardiovascular disorder
- allergic reaction to smoke
- nonsmokers frequently, or always, react to tobacco smoke with frustration or feel hostile toward the smoker or management
- some have even had to use their sick leave because they could not tolerate the smoke around them.

A study of long term effects of both voluntary and involuntary smoking found that chronic exposure to tobacco smoke in the work environment reduced airway function in nonsmokers to the equivalent of that in smokers who consumed from one to ten cigarettes daily. Small airway disease precedes crippling diseases such as emphysema.

In two epidemiological studies, an increased risk of lung cancer was found in nonsmoking wives of smoking husbands. The risk increased in relation to the extent of the husband's smoking.

A nationwide government survey revealed that 78% of employees, including 70% of smokers, agreed that employers have the right to control - even ban - smoking in the work place. (References available for these studies upon request.)

SUMMARY

In summary, the evidence shows that involuntary smoking of smokers' sidestream smoke poses a potentially serious public health problem, and smokers and nonsmokers alike believe the right to designate a nonsmoking area exists.

The present amendment, HB 183, provides for an equitable treatment of both smokers and nonsmokers. Those who choose not to smoke would not be forced to smoke. Those who do smoke would not have their right to smoke taken away, but only restricted to designated areas and, in turn, provide for everyone's right to a clean and healthy environment.

St. Peter's Community Hospital

March 19, 1985

2475 Broadway, Helena, Montana 59601 • Telephone 406/442-2480

March 15, 1985

Senator Michael Halligan
Chairman of the Senate Committee
Business and Industry
1625 Highland
Helena, MT 59601

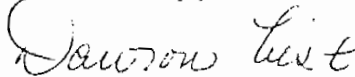
Dear Mr. Halligan:

I want to strongly express my support for House Bill 183 that would make it mandatory that restaurants in the state set aside a non-smoking area. As a pathologist for sixteen years at St. Peter's Hospital in Helena, I have seen the tragic direct effects of smoking on numerous patients both male and female. I feel that the indirect effects of smoking on non-smokers are not only irritating but possibly detrimental. I am sure that this is true in patients with severe chronic lung disease and possibly in some patients with heart disease. It seems to me that it is only fair and reasonable that non-smokers should also have an area in a restaurant separate from a smoking area.

I am sure one of the arguments against the bill is that it will hurt business. I am convinced that it will not detrimentally affect the restaurant and in fact will possibly benefit restaurants. There are at least as many if not more non-smokers and the majority of non-smokers dislike the direct exposure to cigarette smoke.

Thank you for considering my opinion.

Yours truly,



W. Dawson List, M. D.

WDL:kc

RICHARD D. PAUSTIAN, M.D.

CARDIOLOGY
CARDIAC CATHETERIZATION

DIPLOMATE - AMERICAN BOARD
OF INTERNAL MEDICINE &
CARDIOVASCULAR DISEASE

307 N. JACKSON
HELENA, MONTANA 59601
TELEPHONE (406) 449-7943

March 15, 1985

Mr. Michael Halligan
1620 Highland
Helena, MT 59601

RE: HOUSE BILL #183 - RESTRICTING SMOKING IN PUBLIC PLACES

Dear Mr. Halligan:

As a physician, my job requires a great deal of tolerance of many different attitudes and view points, although I may personally disagree with them. To this point in time I have never made a public stance on a political issue; nevertheless, I feel that House Bill #183 is of sufficient importance to at least temporarily halt this trend in my thinking. As a cardiologist, I encounter people on a daily basis who are suffering from the severe effects of atherosclerosis ("hardening of the arteries"). Research has demonstrated quite adequately that cigarette smoking is a potential cause of this devastating and widespread epidemic which accounts for approximately 50% of all morbidity and mortality in this country. I believe that the attitude of many physicians in the past has been "if they (the smokers) don't care about their own bodies, that is their own business." As such, although we have encouraged them to discontinue their smoking habit, the ultimate decision is theirs.

Recent studies, however, have demonstrated that cigarette smoking can be harmful not only to the individual smoking cigarettes themselves, but also to nonsmokers in adjacent areas who inhale cigarette smoke. As such, these nonsmoking individuals are also placed in some health jeopardy by their smoking peers. As such, they too, become at risk for developing significant atherosclerosis.

In light of this knowledge, I wish to lend my wholehearted support to House Bill #183 which restricts smoking in public places and as such, provides a protective benefit to nonsmokers.

Sincerely,



Richard D. Paustian, M.D., F.A.C.C.

RDP:do

HAWKINS-LINDSTROM CLINIC, P.C.
HELENA FAMILY PRACTICE CENTER

555 Fuller Avenue
Helena, Montana 59601
(406) 442-0120

EXHIBIT 20
BUSINESS & INDUSTRY
March 20, 1985

Family Practice

Founded 1943

Pediatrics

Reginald J. O. Goodwin, M.D.
Thomas E. Norris, M.D.
Paul S. Donaldson, M.D.
Kurt E. Werner, M.D.

O. M. Moore, M.D.

Judith A. Kolar
Business Manager

March 14, 1985

Senator Mike Halligan, Chairperson
Senate Business and Industry Committee
State Capitol
Helena, MT 59620

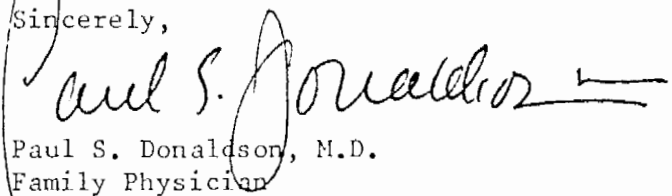
Dear Sir:

The purpose of this letter is to strongly support House Bill 183 providing designated nonsmoking areas in public buildings.

As an ex-smoker I understand the arguments coming from people who are unable to quit their cigarette habit. However, as a health care provider I am daily confronted with the effects of smoking on patients who have chosen to smoke as well as the effects on people who are sitting around these smokers in closed work areas. I think second hand smoke is that bad, and I do think a smoke-free environment in the work place is an essential right. There are people who cannot work around smokers and have to look for alternate work or are less efficient and productive because of the pollution from their smoking co-workers.

Our new building which is currently in the planning stages will be a total nonsmoking building. Some of our employees have argued about this, but it represents our commitment to the facts that smoking is a serious health hazard to smokers and nonsmokers. If I can provide any further specific comments or answers to your questions regarding the smoking issue please do not hesitate to call me directly. The passage of this bill, in my eyes, is essential to the health of Montana.

Sincerely,


Paul S. Donaldson, M.D.
Family Physician



Marketing and Distribution
Falcon Press Publishing Co. Inc.
14 N. 24th
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Billings, MT 59103
406/245-0550

Editorial and Production
Falcon Press Publishing Co. Inc.
27 Neill Avenue
P.O. Box 731
Helena, MT 59624
406/442-6597

March 14, 1985

EXHIBIT 20
BUSINESS & INDUSTRY
March 19, 1985

TO WHOM IT MAY CONCERN:

Falcon Press has been in business for almost six years, and we have been able to maintain a completely smoke-free environment throughout our brief history. We have nine employees, a few of whom do smoke, but we have always maintained a firm policy against smoking by employees in any of our offices, both in Helena and Billings.

This has not hurt our business, and I feel many other businesses could also maintain a smoke-free environment without financial sacrifice.

Thus, I would like to voice our support for House Bill 183 which would continue to support a clean indoor environment.

Sincerely,

Bill Schneider
Publisher

da

AMERICAN LUNG ASSOCIATION OF MONTANA
825 HELENA AVENUE
HELENA, MT 59601



ANNA B. JONES
PROGRAM CONSULTANT

825 HELENA AVENUE
HELENA, MT 59601
442-6556

March 20, 1985
Helena, Montana 59601

Dr. Don Espelin
Senate Business and Industry Committee
Capital Station
Helena, Montana 59620

EXHIBIT 20
MARCH 19, 1985
BUSINESS & INDUSTRY

Dr. Espelin:

After reading the Independent Record tonight, I had to answer the statement made by Dr. Weeks; "ambient smoke has found no positive link between such smoke and health problems." Naturally the tobacco companies can find no substantiative evidence of the harm in "free-floating" smoke because they don't want to.

I'm one who has never smoked a cigarette in my 66 years but I have to take medication daily to keep my lungs "cleared" to be able to breath. I have to sleep with the head of the bed elevated to help at night. I have a terrible chronic cough that helps to bring up the loosened mucous that the medication loosens so I can get a half decent breath.

My condition is caused directly from "free floating smoke". I worked for 23 years in a government office where there was "free-floating" smoke in the bosses office and the coffee room. I told my Doctor one time that he would think I was crazy, but I could "taste" the cigarette smoke that I was breathing. He said, no, I wasn't crazy, that inhaling the "ambient" smoke affected me the same as if I were an inhaling smoker. This was at a time when I had to go to St. Peters Hospital for "Bird treatments" to clear my lungs.

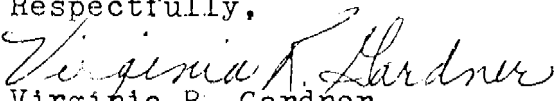
Last year I had occasion to stay in a motel that had non-smoking rooms and believe me that was great. This February I stayed in a motel in Great Falls that did not have non-smoking rooms. The cigarette smoke that lingered in the bedding, towels and even kleenex almost did me in. During the night I couldn't get my breath until I managed to get a window open. It is a terrible feeling not to be able to get my breath.

We definétly need designated non-smoking areas in public places because smokers don't have the courtesy to be sure their smoke isn't affecting a non-smoker. I lose my voice in about twenty minutes when I'm where there is smoking.

This is one industry that should be taxed and taxed and not government subsidized as it is now. Cigarettes are harmful to smokers and non-smokers.

Dr. Weeks statement made me so angry that I had to write in support of your statements. I can give others who are bothered by smoke from cigarettes.

Respectfully,


Virginia R. Gardner
5725 Collins Drive
Helena, Montana 59601

March 18, 1985

EXHIBIT 20
BUSINESS & INDUSTRY
March 19, 1985

Ladies and Gentlemen:

My name is Dave Adamson. I'm a Professional Anesthetist attached to the Fort Harrison V.A. Hospital. I'm sorry I can't stand here before you today, but my hospital anesthesia duties would not permit it. I'm fairly new to this area -- arriving here last August. I came to Helena for its size, pristine air and friendly people. I suffer from allergies and chronic bronchitis. This is the reason and for the hundreds of others like myself, that I have taken this time to speak before this committee. I'm not here to debate whether smoking and second-hand smoking is harmful to one's health. I need only listen to the comments made by the Surgeon General and others in the health care field to know what the score is on smoking. I need only to walk up and down the hospital wards to physically see the remnants of this habit. I speak to you today concerning Bill 183 and in the defense of the 70% of us who don't smoke and those who have these terrible allergies to smoking.

Health hazards aside, second-hand smoke causes discomfort to a significant number of people. These include some smokers as well as non-smokers. Tobacco smoke most commonly affects the eyes but it can also irritate the nasal passages and can induce coughing or headaches. Although a true allergy to tobacco smoke has not been demonstrated, the smoke can be particularly irritating to people with hay fever or other allergies. It may also aggravate the symptoms of people who experience chest pain (Angina) from coronary disease and of those who suffer from asthma or other chronic respiratory disease. Accordingly, even if passive exposure is not found to cause disease in healthy people, it can be a nuisance to many and a possible risk to some people with chronic illnesses.

Some surveys indicate that a majority of smokers as well as most non-smokers favor current restrictions on smoking in public places, such as having non-smoking areas in restaurants or on aircraft or prohibiting smoking in hospital rooms. At the same time, a minority of smokers prefer no restrictions and a minority of non-smokers want a complete ban. Surely some restrictions are desirable in the work place as well as in public facilities -- even if for comfort and aesthetics alone.

"2"

In closing, may I say to those restaurateurs and others who will not support this bill, the tide is turning and the numbers for support of this bill is growing and growing. Perhaps not with this bill, but this bill and others like it will be brought up again and again until something constructive is done.

I thank you for your time and indicate that part of my text came from Consumer Report articles. But all of these thoughts are mine.

Thank-you,

Dave Adamson, CRNA

MISSOULA COUNTY
Barbara Evans
COUNTY COMMISSIONER

Missoula County Courthouse • Missoula, MT 59802
406/721-5700 Ext. 200

Home: 2415 - 56th Street • Missoula, MT 59803
406/251-3001

February 1, 1985

BUSINESS & INDUSTRY
March 19, 1985
EXHIBIT 20

Montana State Representative Robert Ellerd
Montana State House of Representatives
Capitol Station
Helena, MT 59624

Dear Representative Ellerd:

As I told you on the phone a week ago, I strongly support your bill to require non-smoking sections in all public buildings. It is a well-known fact that smoking is hazardous to health, and many cities now prohibit smoking in shopping malls, grocery stores, elevators, etc. And in light of the newly-publicized fact that those of us who breathe second-hand smoke are exposed to as many hazardous chemicals as those who smoke, it is not unreasonable for non-smokers to insist on smoke-free places in which to work and do business.

Missoula County is working to pass regulations to restrict smoking in the Courthouse to designated areas and, if I have my way, nowhere else. When the Edgar S. Paxson murals were cleaned a few years ago at a cost of \$40,000, it was discovered that most of the grime on them was cigarette smoke.

Missoula County has had great success in reducing outdoor air pollution via our controls that regulate wood smoke. It's high time to clean up our indoor air. I'm enclosing two articles which may be of some help.

Sincerely,

Barbara Evans
cd

Barbara Evans

BE/cd

EXHIBIT 20
BUSINESS & INDUSTRY
March 19, 1985

Verne H. Ballantyne
P. O. Box 477
Bozeman, Mt 59715

January 30, 1985

Mr. Bob Ellerd, State Representative
State Capitol
Helena, Mt.

Dear Bob:

If my moral support for your stand and effort concerning non-smoking areas in public buildings would be of any help then this is to inform you that I am very much in favor of your effort in this regard.

As a matter of fact I think smoking should be prohibited from all public areas. I realize this isn't a practical approach but I can't see why people should be allowed to inflict their poisonous tobacco smoke on other people.

Thanks for your good work. With Best
Regards I am,

Sincerely yours,

Verne H. Ballantyne
Verne H. Ballantyne

EXHIBIT 20
BUSINESS & INDUSTRY
March 19, 1985

34 N. Crestwood Dr.
Billings, Mt. 59102

January 29, 1985

The Hon. Robert Ellerd
House of Representatives
State Capitol
Helena, Montana 59601

656-8678

Dear Mr. Ellerd:

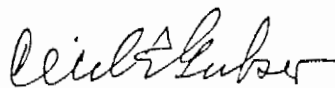
I want to commend you for introducing House Bill 183 which would require all public buildings to set aside smoke-free areas.

Many States have had similar or stronger requirements for years. The rights of non-smokers need to be protected from the minority who smoke. Many times we non-smokers with severe allergies from smoke are trapped in restaurants and other public places and forced to breathe the smoke which is so debilitating to us. Also, I object to having my health jeopardized by that minority who are inconsiderate of others.

The passage of this bill, or even a stronger one, would not hinder smokers; it would simply protect some of the rights of the majority who do not smoke.

Again, my great appreciation for your efforts to protect the rights of the majority of Montanans.

Sincerely,



Cecil E. Gubser

Dear Mr Ellerd,

I am glad to hear that you are again submitting a bill to get us NON SMOKING AREAS, I wish you lots of luck and would like to help in any way I can.

I have a skin allergy to cigarette smoke, it is hard for me to go into any public place that allows smoking. My home is the only place where I am safe.

Lewistown has no restaurants with non smoking areas so therefore I can not go out to dinner without suffering for a couple of days.

I love to go to basketball games but they allow smoking in the lobby of the Civic Center and the halls at the schools so that when leaving you have to walk through the smoke. I wish they would not allow smoking at school functions its no wonder so many teen-agers think smoking is O.K. I have talked to a lot of people who would like to see these smokers go outside the buildings to keep their bad habits to themselves.

When the Kings Table in Great Falls first opened they had a small section in the back for non smokers but soon the demand for these tables over came the room so the management had to change the seating around, now the smokers have the back. If more owners of public places would realize that their business would grow if they gave us all an equal chance. I wish people could not smoke in supermarkets, It makes me ill to see a smoker coming towards me.

If you can use my help please write to;

HILDABUZZAS

509-West Shields
Lewistown, Mt.
59457

EXHIBIT 20
BUSINESS & INDUSTRY
March 19, 1985

STATEMENT IN OPPOSITION TO HB183, BEFORE THE SENATE BUSINESS AND
INDUSTRY COMMITTEE, TUESDAY, MARCH 19, 1985, BY DONALD W. LARSON.

There was a time when the challenge of being in business was stimulating. You worked hard and long hours, met your competition, learned to successfully market your products or services, and wound up making a few dollars for your efforts.

But the picture has changed so much...particularly the past few years and particularly with bills such as this one... that the real challenge one has any more is to keep up with the restrictive burdens, taxes, regulations, laws and rules that make government the controlling factor in your daily operations.

I welcome all the customers who choose to walk through the doors of my restaurant and I want them to enjoy, not be offended by the atmosphere. They represent my livelihood, that of my family, my employees and their families. I will do my best to keep my customers, but I cannot guarantee anyone they will be in an absolutely smoke-free atmosphere, in spite of the fact that I have installed the best equipment to remove smoke from the premises. Actually, however, my customers probably inhale less smoke in the controlled atmosphere of my establishment than they would by simply walking down the streets of Helena.

We hear a lot of "Build Montana"...clean air, clean water... we all approve of that. But business people like we are also trying to Build Montana, too...by employing people in a clean industry, paying our taxes, meeting our payrolls and paying our bills.

EXHIBIT 21
BUSINESS & INDUSTRY
March 19, 1985

I'm proud of my track record, just as most business people are proud of theirs. I want to be able to use the business judgment it has taken years to develop. If I need help from the government in running my business and dealing with my customers, I certainly will call upon the proper authorities. Meanwhile, I ask for myself and the many others whom I'm sure will agree with me, that we kindly be allowed to operate our businesses without any further interference or encroachment or Big Brotherism.

HB183 does not clean the air. It does not help the environment. What it does do is add to the ever-growing burdens of the small businessman who is trying desperately to survive.

DONALD W. LARSON
Jorgenson's Restaurant & Lounge
1720 11th Avenue
Helena, Montana 59601

Ph: 442-6380

Tobacco and Candy Distributors

HB183 has an adverse impact on the very business which the state of Montana licenses as state agents to collect important revenues which have contributed to building Montana.
EXHIBIT IN OPPOSITION TO HB183

When the Montana Association of Tobacco Distributors was organized in 1949, there were 55 licensees on whom the state of Montana depended to prepay and administer precollection of cigarette sales taxes. This tax began as 2c a pack of 20 cigarettes. This tax has increased 700 per cent. Wholesale distributors have prepaid \$256 million in state cigarette taxes. They have been caught in an ever-tightening squeeze until their numbers have been reduced to 13 Montana-owned wholesale cigarette distributors.

The following Montana family-owned distributors are licensed by the state to prepay state cigarette sales taxes:

1. Beaverhead Bar Supply, Dillon
2. EastMont Enterprises, Sidney
3. Gierke Distributing Co., Miles City
4. Glacier Wholesalers Inc., Kalispell
5. Harkins Wholesale Co., Butte
6. Hi-Line Wholesale Co., Wolf Point
7. (Pennington's of Great Falls
(Pennington's of Havre
(Pennington's of Shelby
8. F. T. Reynolds, Glendive
9. Roach & Smith Co., Anaconda
10. (Service Candy, Billings
(Service Candy, Bozeman
(Service Candy, Livingston
11. (Sheehan's of Helena Inc., Helena
(Sheehan-Majestic Inc., Missoula
12. Spitz Wholesale, Missoula
13. Two Medicine Family Whls., Browning

' SAVE MONTANA BUSINESS!'

Enactment of HB183 could add momentum to the reduction of Montana family-owned cigarette distributor business.

If you want to "BUILD MONTANA" you must first vote to SAVE THE MONTANA BUSINESS we already have, by voting to kill

Other prepayers and administrators of state cigarette tax are out-of-state corporations:

- | | | |
|-----|------------------------------|--|
| 14. | (Associated Foods, Billings | — subsidiaries of Salt Lake City-based |
| | (Associated Foods, Helena | — corporation. |
| 15. | (Buttreys Foods, Great Falls | — of Jewel Tea Corporation, Chicago |
| 16. | (Ryan's , Billings | — subsidiaries of Super-Value, of |
| | (Ryan's , Great Falls | — South Dakota-Minnesota |
| 17. | West Coast Grocery | — of Portland, Oregon |
| 18. | U R M Stores | — of Spokane, Washington |

The history of the Montana cigarette sales tax parallels failures among the resident Montana family-owned wholesale distributor businesses — from 55 to 13. The tremendous increases in cigarette taxes in only two yeats and resultant loss of sales is proof that "The Power to Tax is the Power to Destroy!" The latter quotation is that of the Chief Justice of the United States in 1819, John Marshall (McCoullough vs. Maryland).

Please VOTE TO KILL HB183. It's antibusiness. It's not needed.

Executive Director Tom Maddox, P. O. Box 123, Helena, MT 59601 • Telephone (406) 442-1582
59624

Montana's Clean Indoor Air Act of 1979 is a part of an education process. There is a great deal of courtesy among smokers in public. In business places, the voluntary use of no smoking signs is in far more use, than not. There is another side of the issue of growing mutual courtesies between smokers and nonsmokers. Cigarette sales in Montana are on the down trend the past two years. When the first no-smoking bill was introduced in 1973, testimony was that there were 70% smokers, 30% nonsmokers. Today we hear statistics are the other way 'round—now just 30% smokers. The antismoking campaigns are at work. We don't need more law — let the educational process work in our society. Our present law, with emphasis on volunteerism, is a credit to Montana.

EXHIBIT 22
BUSINESS & INDUSTRY
March 19, 1985

Nonsmoking bill anti-business legislation.

This bill is more antibusiness than meets the eye. There are no guidelines for the business principal for compliance. How is a retail store to comply? What are the standards, other than 100 per cent nonsmoking? In general merchandise stores, the traffic among buyers generated by cigarette customers has long been recognized. A store posted for nonsmoking would discourage the very customers that help them sell more than cigarettes. Hotels and convention centers, in addition to restaurants would discourage business in rush periods when seats of a customer's choice were filled. Please don't add to Montana's national image as antibusiness.

FOR RESTAURANTS,
The word
"Shilina" of
SIGNED-AREAS
INVITE PERSONAL
CONTROVERSIES.

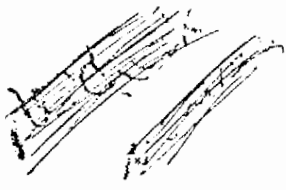
Problems inherent in this bill will also place a burden on administrators and enforcers. How is compliance enforced? The bill doesn't say on its face. The burden is on county attorneys. We visited with county attorneys. They said they already have more prosecution than they have time, manpower or budget—murders, rapes, arson, on and on. They say this bill creates a new crime. They say the \$100 fine does not meet the cost-versus-benefit test of good law. It would add a costly burden to local health officers. I ask our local health officer. He says there's no free lunch to the cost of handling a complaint. If we go to court, it's far more than \$100. Our state is short of money and so are the counties. ~~Realistically~~ This bill should have a note realistically telling us its fiscal impact on government—state and local.

This bill is unnecessary legislation—it's not needed.

HB183 is excessive. There already is enough law on our books. Section 15-31-102 and related sections provide for prohibiting smoking in all public places.

MARCH 19, 1985
BUSINESS & INDUSTRY
EXHIBIT 22

An aide to this committee pointed this out to me. She has a copy in her committee files.



The chamber of commerce president appeared in opposition to HB183 as anti business.

It takes away the basic right of a businessman to run his own business. Smart businessmen recognize the preferences of the consuming public, and will cater to nonsmokers. Let the marketplaces resolve the issue without government police action or intrusion.

San Francisco is among the few cities which have laws severely limited the right of smokers to enjoy cigarettes in public places. National associations have voted to stop scheduling conventions in San Francisco. In Montana hotels and convention centers will have problems in ~~seating~~ banquet seatings under the bill.

Following prepared for delivery at 3 p.m., Monday, February 4, 1985, session,
~~AND AT 10 A.M. TUESDAY, MARCH 19 for the Senate B & I Committee.~~
I'm Tom Maddox, representing the Montana Association of Tobacco and Candy Distributors.

By a unanimous vote of the association members, the association is opposed to HB183, and respectfully requests that this committee kill HB183 as proposed legislation which is not necessary, anti-business and against the revenue interests of the state.

1. Our responsibility is to contribute some balance to considerations of HB183.

The Montana local wholesale cigarette distributor is performing a service to the state by being the primary source of revenue for a great amount — millions of dollars — of the state government's expense of operations. Few persons are either unaware, they have forgotten or they are taking for granted the heavy burden which the state has placed upon a relatively few Montana wholesale cigarette distributors. The law puts a squeeze on the Montana cigarette wholesalers. In the first place, they order their cigarettes from manufacturers who require cash payment within seven days, or cigarette deliveries are terminated. Then the state law requires that these wholesales pay for all taxes on cigarettes or arrange costly shortterm credit for tax indicia — tax stamps. At present the total of state-federal taxes on a carton of cigarettes is \$3.20. That's about 33 per cent of the pack or carton; for those who can afford only the cheaper generics, this percentage of tax burden is greater, for the tax remains the same. How great the dependence of our state government is being dramatized by our governor daily, for he claims the budget can't be balanced without exacting even greater tribute from the citizens who enjoy smoking their cigarettes.

Please bear with this detail. It is to make the point that House Bill 183 is aimed at reducing the viability — the dependability — of cigarette tax as a predictable revenue. We hear and read the news media: Now the economy and antibusiness actions by government has reduced the state of Montana revenue from the state's liquor business. Government had complacently over estimated this.

If pending or proposed state-federal tax increases are all enacted, the tax burden on declining numbers of those whose choice and pleasure is smoking cigarettes will be up to \$6.00 in Montana, for the maximum carton cost. To repeat: Now being requested by government is a tax of as much as \$ 6.00 a carton of cigarettes this year.

The numbers of these overly burdened taxpayers are declining. However, government's cigarette dependency for revenues grows and grows each year.

We conclude that HB183 is adverse to our state government's interests, which is to say HB183 is not in the interests of a majority of citizens, nor the thousands of state government employees.

2. Our second point: House Bill 183 is just one more of the bills which gives Montana its national image of being anti-business. If enacted, the drop in product sales would in all probability drop at a faster rate. This means loss of sales of this legal, government revenue product, and loss of income for private families all over the state who are dependent upon this business. A drop in their wages and salaries means less revenue for the state from income taxes. We have at hand a great amount of statistics to support the foregoing observations.

3. To support the statement that House Bill 183 is not necessary, you must be impressed by the educational process which is under way.

I am impressed everywhere I go that there are fewer men and women smoking cigarettes or even fewer cigar smokers than a few years ago.

Recall that first bill of this nature — House Bill 157 in 1973. (Refer to , display bill

In earlier years, anti-smoking elements at times approached hysteria. But even in Montana's first such bill there was one element of common sense: It exempted public places which accommodated 30 or fewer persons.

The point is: THERE'S AN EDUCATION PROCESS GOING ON. We see it on roadside billboards, on T V where anti-smokers counsel us but government prohibits TV advertising; we see in newspapers offers for enrollment in schools or workshops to stop smoking. It's an educational process that we have observed in our legislature. I remember when visitors in the north seats of the gallery could barely distinguish through blue - brown smoke the features of the person in the speaker's chair. This session, one day we counted only nine ashtrays on representatives' desks. One was a pipe smoker. That's evidence of the educational process and evidence that House Bill 183 is not necessary legislation.

My wife and I when dining out often count the cigarette smokers. We observe that there are fewer and fewer in our restaurants. And this includes less smoking observable in the Hofbrau as well as Jorgenson's, in Tony's Lounge versus McDonalds, or wherever you wish to make a personal count.

When the first Montana "no smoking" bill was rejected in 1973, testimony was that the country was divided about 70 - 30 for smokers versus nonsmokers. Today we hear its closer to the other way around --- with 30 per cent. That's what the education process has done.

Even so, under our voluntary, independent philosophy in Montana, shopkeepers in our malls post them: NO FOOD, NO SMOKING. Our present law says it is all up to our operators of public places, and isn't that a better way than legislating more government intrusion in our private lives? Our restaurants have done a good job on the whole, posting "Non smoking" signs — in Skippers, the Pancake House, the 4Bs and many more. Even the tobacco industry nationally has an educational program to dissuade cigarette smoking among teens.

In conclusion, the present Montana Clean Indoor Act is working.

It has had a primary role in the education process.

The balanced conclusion of the consideration before this committee is clear:

The legislature doesn't need HB183; it is not necessary.

Please vote against piling on more government.

Please vote against House Bill 183.

The foregoing was prepared by Thomas Maddox, registered lobbyist,
Executive Director

Montana Association of Tobacco and Candy
Distributors, Nonprofit Inc.

P. O. Box 123

Helena MT 59624

Telephone (406) 442 - 1582

Roster of association membership; support statistics available upon request.

Tobacco and Candy Distributors

EXHIBIT 22
BUSINESS & INDUSTRY
March 19, 1985

4 JANUARY 1985

WE ALL MUST CORRECT A WRONG ASSUMPTION! —
THAT FEDERAL CIGARETTE TAX WILL BE CUT BACK 8¢
NO ONE CAN ASSUME THAT THIS WILL HAPPEN!

The Montana House Bill 45, strongly requested by Governor Ted Schwinden, calls for \$2.40 state sales tax on a carton of cigarettes and provides effectiveness on October 1, 1985, but there is no provision for contingency on whether the Congress will allow 80 cents a carton tax to sunset October 1. The governor's liaison to the legislature informed us that the governor assumes that the federal tax will be cut back. The weight of evidence available at this time is against the federal government reducing the cigarette tax, and there's a bill to increase it to \$3.20 a carton.

Each of us must do what can be done to correct this erroneous assumption among the legislators, and among the governor's cabinet and staff — and news media.

A January 2 AP story concluded erroneously: "If enacted the (Schwinden) cigarette tax increase would replace an 8 cents a pack tax being dropped next October by the federal government."

One state representative, responding to a MATCD member's letter, stated that he would not vote for the 8¢ increase if the federal does not release its added 8¢. We hope to persuade this representative to not only oppose HB45 but, if it advances, to amend it to not become effective unless Congress does indeed cut back the federal tax, which has been doubled the past two years.

PLEASE IMPRESS THE LEGISLATORS WITH THE FOLLOWING

U. S. Senator Robert Packwood (R—Oregon) has stated on the federal cigarette tax unset vote:

"I DON'T THINK ANYBODY REALLY THINKS THAT IT'S GOING TO COME OFF. THEY KNOW FULL WELL WE'LL EXTEND IT NEXT YEAR (IN '85)."

U. S. Senator John Heinz III (R—Pennsylvania) has introduced legislation TO INCREASE THE CIGARETTE FEDERAL TAX TO 32¢ A PACK — A 100% INCREASE." — Or, to 400% compared to the U. S. tax just two years ago!

There never has been a "temporary" federal tax. The same condition — the growing federal deficit — that prompted the "temporary" 100% federal tax increase the past two years still exists, only the debt burden is worsening.

INDEPENDENT RECORD

December 28, 1984

Helena, Montana

Vol. 41 No. 37

Single copy 35c

Ted's list includes a cigarette tax hike

By STEVE SHIRLEY
IR State Bureau

While the Schwinden administration opposes any general statewide tax increase, it will ask the 1985 Legislature to raise the state's cigarette tax from 16 cents to 24 cents a package.

If enacted, the state tax increase would replace an 8 cents a pack tax that's being dropped by the federal government next October.

The tax hike would bring in about \$12.8 million in additional revenue during the 1986-87 biennium, according to state budget director David Hunter.

Suggestions have been made that the extra revenue be earmarked for such purposes as social-service programs, construction of state buildings and funding of district courts. However, the administration wants the additional funds to be put into the state's general fund.

Currently, all cigarette-tax revenue goes to the state's long-range-building fund, which is used to construct and maintain state buildings.

The administration's cigarette-tax proposal is among 100 bills that have been drafted by the Legislative Council for the 1985 session. Following is a partial list of bills that have been developed:

- House Bill 51. Put a two-year moratorium after June 30, 1985, on construction or purchase of state buildings. Units of the university system wouldn't be affected, nor would capital projects approved before Oct. 1, 1983. (Sponsored by Rep. Cal Winslow, R-Billings)

Proposed legislation:

- Getting a state health insurance program that gives lower rates to exercisers and non-smokers —

- Restricting smoking in public places —

*** In another state.....

Legislator urges law against nose-blowing

JEFFERSON CITY, Mo. (AP) — Striking a blow against what he calls a "gross" and potentially unhealthy habit, a state lawmaker has proposed banning loud nose-blowing in restaurants.

Rep. Fred Williams, assistant majority floor leader of the Missouri House, wants to make it a crime for any person in a restaurant or other eating establishment to "blow his nose in a loud, obnoxious or offensive manner" while in the presence of the other patrons.

"I can't think of anything more gross," Williams said in an interview Thursday. "That's just like letting somebody spit on the floor of a restaurant while you're eating there."

Williams said his measure would be no more of an infringement on civil liberties than anti-smoking ordinances. Customers who needed to blow their noses could do so in a restroom.

—From the Helena, Montana
Independent Record

LEGISLATURE OF THE STATE OF MONTANA

PREPARED STATEMENT BY
DR. DAVID A. WEEKS

My name is Dr. David Weeks and it is a privilege for me to speak before this Committee today with respect to the proposed legislation to restrict smoking in public places. As a physician and longtime resident of the state of Idaho, I enthusiastically support any measure that will protect the public health. In my professional opinion, however, the pending bill will not contribute to that laudable objective. This view is based on my independent review and analysis of the most recent medical literature that has examined the question of whether environmental tobacco smoke ("ETS") can cause disease in exposed nonsmokers.

Repeated, careful studies refute any such notion. Within the last two years, workshops in the United States, Switzerland and Austria have studied the latest data on environmental tobacco smoke and have concluded that legislative initiatives to restrict smoking in public simply cannot be justified on health grounds. Among the 65 participants at the three meetings have been many scientists of indisputable objectivity and international reputation who have made significant contributions to knowledge about environmental tobacco smoke, its measurement and possible health consequences. In the United States, these experts

concluded that:

A review of the data from the studies which have been carried out or are in progress which address the effect of [ETS] on the respiratory system suggests that the effect varies from negligible to quite small.1/

In Switzerland, the consensus view was that:

An overall evaluation based upon available scientific data leads to the conclusion that an increased risk [of lung cancer] for non-smokers from ETS exposure has not been established.2/

Similarly, in Austria, the assembled experts found that:

Should lawmakers wish to take legislative measures with regard to passive smoking, they will, for the present, not be able to base the efforts on a demonstrated health hazard from passive smoking.3/

All of these workshops fully support the continuing validity of the observation made in 1981 by the author of an American Cancer Society study: "Passive smoking may be a political matter, but it is not a main issue in terms of health policy."4/ As reiterated just this month in a Consumer Reports article entitled "The Murky Hazards of Secondhand Smoke":

1/ Report of Workshop on Respiratory Effects of Involuntary Smoke Exposure, National Institutes of Health, Washington, D.C., 1983.

2/ ETS -- Report from a Workshop on Effects and Exposure Levels, University of Geneva, Switzerland, 1983.

3/ Symposium on "Passive Smoking from a Medical Point of View," Vienna, Austria, 1984.

4/ Garfinkel, L., interview, "Nicht vom eigentlichen ablenken (Let's Concentrate on the Main Issue)," Munch med Wschr 123 (40): 1483-1484 (1981) (Translation).

The role of passive smoking in lung cancer, if any, remains unresolved. Among medical scientists, the prevailing view appears to be that voiced recently by Dr. Ernst Wynder, an authority on smoking and cancer: "It's too early to make a definite statement about it."

DATE MARCH 19, 1985COMMITTEE ON BUSINESS & INDUSTRY

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Dan Corti	Missoula Co. H.D.	HB 183	✓	
DAVID LACKMAN	MT Public Health Assoc	HB 183	✓	
Edgar Rittux	MT. Unions Assoc & self	HB 183	X	
David Wells	Tobacco Institute	HB 183		X
Thomas W. Maddox	Montana Association of Tobacco & Candy Distributors	HB 183		✓
James Anderson	Tobacco Inst.	HB 183		✓
Harold R. ...	MT Soc. for ...	HB 183	X	
H. H. ...	M.T.A.			✓
Bob ...	MTA			✓
K. ...	Jefferson School	HB 183	X	
Walter ...	Jefferson School	HB 183	X	
Donna ...	Jefferson School	HB 183	X	
Kirk Waterman	Jefferson School	HB 183	X	
Brian ...	Jefferson School	HB 183	X	
Chris ...	Jefferson School	HB 183	X	
Richard ...	TB's Rest	183	X	
Earl ...	American Lens, Cam	183	X	
Don ...	DH 55	183	X	
Anna ...	ALA of Mt.	183	✓	
Douglas B. ...	self	183	✓	
Harry ...	self	183	✓	
Kathleen ...	MT Restaurant Assoc	183		✓
Ann ...	Citizen - Missoula	HB 183	✓	
Joe ...	Self	HB 183	✓	
Steve Brown	Blue Cross	HB 183	✓	
Bob ...	Self	HB 183	✓	

(Please leave prepared statement with Secretary)

DATE: MARCH 19, 1985

COMMITTEE ON BUSINESS & INDUSTRY

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

(Please leave prepared statement with Secretary)

MINUTES OF THE MEETING
BUSINESS & INDUSTRY COMMITTEE
MONTANA STATE SENATE

March 21, 1985

The forty-third meeting of the Business & Industry Committee met on March 21, 1985 in Room 410 of the Capitol Building at 10 a.m. The meeting was called to order by Chairman Mike Halligan.

ROLL CALL: The members of the committee were all present except for Senator Neuman who was excused.

CONSIDERATION OF HOUSE BILL 567: Representative James Schultz, House District #30, Lewistown, is the chief sponsor of this measure which would require life and disability insurance companies to send written cancellation notices before cancelling a policy for nonpayment of premiums. He had talked with several constituents and felt this was a problem that needed to be addressed. He noted this is patterned after model legislation passed in 16 states. (EXHIBIT 1)

PROPOSERS: There were none.

OPPOSERS: There were none.

Questions were then called for. Senator Halligan wondered just which policies this measure would cover and was told by Rep. Schultz policies that were primarily annual premiums. He felt it would affect 10 to 25% of the total policies that are currently issued. He was concerned about the 6 month hospital insurance policies but felt that they could not be addressed in this act.

Senator Thayer wondered if there was a way of giving notice on policies that are paid on a monthly basis. He felt the bill should stipulate that in no event can any policy be cancelled without some notification. Rep. Schultz stated he would support any efforts to check into this situation further. He then closed the hearing on House Bill 567.

CONSIDERATION OF HOUSE BILL 606: Representative Bud Campbell, House District #48, Deer Lodge, is the chief sponsor of this measure which he noted was done upon the request of the Department of Justice, Motor Vehicle Division. It would revise and clarify the laws pertaining to the sale and distribution of motor vehicles, establish administrative penalties and amend some sections of the current law. He explained that current law requires a motor vehicle dealer to have a sign indicating the firm name and headquarters at the principal place of business. However this can be confusing when the dealer has a completely different type of business at that location such as a motel or a restaurant. He felt it was reasonable to have a sign to indicate that a dealer has autos for sale. He indicated too that the bill would clearly authorize the division to check dealer records to insure compliance with the law.

PROPOSERS: Larry Majerus, Administrator of the Motor Vehicle

persons involved in the offering of sales for securities, sub-section 2 regulates persons offering to buy securities, sub-section 3 regulates when an offer to buy or sell takes place in Montana and sub-section 4 sets forth when an offer to buy or sell is accepted in this state. Sub-section 5 discusses when an offer to buy or sell securities is made through the use of the media and sub-section 6 states that this act applies to investments advisors.

PROPOSERS: J. Kim Schulke, Staff Attorney for the State Auditor's office, explained this law protects the investor and promotes uniformity among the states and encourages capital investment in Montana. She submitted a written statement on the auditor's policies. (EXHIBIT 3)

Questions were then called for from the committee members. Senator Halligan asked Kim Schulke to explain the definition of a security. She noted this is very complex but is covered in Sec. 30-10-103. Senator Christiaens wondered about the territorial base for a transaction and was told the act does not apply if none of the transaction occurred in the state. Representative Keyser then urged adoption of this measure and the hearing was closed on House Bill 662.

DISPOSITION OF HOUSE BILL 662: Senator Gage MOVED TO CONCUR IN HOUSE BILL 662. The motion carried. Senator Halligan will carry this on the Senate floor.

DISPOSITION OF HOUSE BILL 658: Senator Christiaens then MOVED THAT HOUSE BILL 658 BE CONCURRED IN. The motion carried. Senator Christiaens will carry the bill on the Senate floor.

DISPOSITION OF HOUSE BILL 606: Senator Thayer MOVED THAT HOUSE BILL 606 BE CONCURRED IN. The motion carried. Senator Boylan voted "no". Senator Thayer will carry the bill on the Senate floor.

DISPOSITION OF HOUSE BILL 183: Senator Weeding MOVED THAT HOUSE BILL 183 BE CONCURRED IN. Senator Boylan then made a SUBSTITUTE MOTION THAT HOUSE BILL 183 NOT BE CONCURRED IN. He felt the bill should be written differently. Senator Gage felt that passage of this measure would just make people more antagonistic and felt that most people would cooperate if asked to refrain from smoking anyway. Senator Thayer felt the bill needed some work but respected the rights of those who would like cleaner air. Senator Williams opposed the measure because he felt small restaurants in rural areas would have trouble complying with these regulations. Senator Christiaens felt the fact this is optional now is something in its favor and would not like to see something become mandatory. On the motion TO NOT BE CONCURRED IN, Senator Christiaens, Senator Halligan, Senator Kolstad, and Senator Fuller voted "no". It was then noted that Senator Neuman had left his vote for this bill and this caused the motion to fail.

Senator Gage then MOVED THAT HOUSE BILL 183 BE TABLED. Senator Kolstad and Senator Halligan voted "no". This motion carried.

BUSINESS & INDUSTRY

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 3/21/85SENATE
SENT
#

NAME	PRESENT	ABSENT	EXCUSED
Chairman Halligan	X		
V-chrm. Christiaens	X		
Senator Boylan	X		
Senator Fuller	X		
Senator Gage	X		
Senator Goodover	X		
Senator Kolstad	X		
Senator Neuman	E		
Senator Thayer	X		
Senator Williams	X		
Senator Wooding	X		

Each day attach to minutes.

MINUTES OF THE MEETING
BUSINESS & INDUSTRY COMMITTEE
MONTANA STATE SENATE

March 22, 1985

The 44th meeting of the Business & Industry Committee met on Friday, March 22, 1985 in Room 413/415 of the Capitol Building. Chairman Mike Halligan called the meeting to order.

ROLL CALL: All committee members were present except for Senator Goodover who was excused..

CONSIDERATION OF HOUSE BILL 462: Representative Gene Donaldson, House District #43, of Helena is chief sponsor of this bill which is an act to limit the marketing of furniture made in Montana State Prison and providing an effective date. He stated the title as written is a bit misleading because this allows for the expansion of marketing of prison made furniture. He is on the prison ranch board and feels great progress has been made in recent years to give the prisoners something constructive to work on and rehabilitate themselves. There is a conflict between the private sector and prison industries. They have worked out an agreement between private sector and prison industries and he feels it is acceptable to both parties involved. Those products that are sold to agencies within state government would have to go through the state's purchasing process and have to be competitive. The provisions also say that within the Department of Institutions they would not have to go through the purchasing process. Another area provides for export of prison made products if possible. The most important part is in working with the private sector so they would expect to try to sell any excess furniture they might manufacture to a wholesaler to sell as they do not intend to get into the marketing field. He feels this is a good compromise to try and expand the prison industries and satisfy the private sector also.

PROPONENTS: George Allen, Montana Retail Association, appeared in support of HB 462. He felt it was important that this is an expansion of the prison industries program because now the retailers are willing to accept these products as a wholesale manufacturer and will retail them and try and sell them. They would have to go through the bidding process on all jobs except within their own department which he feels put them into the competitive market with the rest of industry. He stated if this bill passed that they have indications that many retailers would be interested in their products. He feels it is opening a door that will be good for the state and eliminate the problem of conflict that has existed in the past. (EXHIBIT 1)

March 22, 1985

CONSIDERATION OF HOUSE BILL 460: Senator Gage felt that there is still some work that needs to be done on House Bill 460 and was going to make a motion this bill be brought back to the committee for further work on the amendments.

CONSIDERATION OF HOUSE BILL 707: There is some possible conflict with the amendments passed on this bill also and it may also be brought back to the committee for some discussion.

FURTHER CONSIDERATION OF HOUSE BILL 462: Senator Gage felt we did not address the possibility of selling products to the federal government and other agencies. Senator Fuller also felt we needed to have more discussion perhaps with the institutions people before this bill is voted on.

FURTHER CONSIDERATION OF HOUSE BILL 183: Senator Thayer felt the way the bill is written has some problems but that perhaps with some amendments it could possibly be more feasible. He did not see where the signs should be redone. Senator Christiaens felt the idea was good but mandating something of this nature is something he felt was just not necessary. Senator Neuman was confused by the testimony and just what the bill was going to do and it is designating a smoking area but making the building nonsmoking otherwise. This would make those who were creating the nuisance be the ones segregated. Amendments were distributed for consideration by the committee and it was decided to leave the bill as it is now in a TABLED situation. (EXHIBIT 7)

The meeting was adjourned at 11:30 a.m.


SENATOR MIKE HALLIGAN, CHAIRMAN

cd

BUSINESS & INDUSTRY

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 3/22/85

SENATE
SEAT

NAME	PRESENT	ABSENT	EXCUSED
Chairman Halligan	X		
V-chrm. Christiaens	X		
Senator Boylan	X		
Senator Fuller	X		
Senator Gage	X		
Senator Goodover			
Senator Kolstad	X		
Senator Neuman	X		
Senator Thayer	X		
Senator Williams			
Senator Weeding	X		

Each day attach to minutes.

PROPOSED AMENDMENTS TO HOUSE BILL 183:

EXHIBIT 7
BUSINESS & INDUSTRY
March 22, 1985

1. Title, line 8.

Following: "50-40-104"

Insert: ",50-40-107"

2. Page 1, line 14.

Following: "areas"

Strike: "--notice"

3. Page 1, line 18.

Following: "area"

Strike: "with easily readable signs"

4. Page 1, line 19.

Following: "nonsmokers"

Insert: "."

5. Page 1, lines 20 and 21.

Strike: lines 20 and 21 in their entirety

6. Page 2.

Following: line 11

Insert: "Section 2. Section 50-40-107, MCA, is amended to read:

50-40-107. Exemptions. The following shall be exempt from this part: (1) restrooms; (2) taverns or bars where meals are not served; (3) vehicles seating six or fewer members of the public; (4) rooms seating 50 or fewer members of the public.

Renumber: subsequent section

MINUTES OF THE MEETING
BUSINESS & INDUSTRY COMMITTEE
MONTANA STATE SENATE

March 29, 1985

The fiftieth meeting of the Business & Industry Committee met on March 29, 1985 at 4 p.m. in Room 410 of the Capitol Building.

ROLL CALL: All committee members were present.

DISPOSITION OF HOUSE BILL 183: Senator Christiaens had proposed an amendment to House Bill 183 stating that in buildings maintained by a state or political subdivision where 7 or more employees are occupying a room, that the manager shall arrange nonsmoking and smoking areas, but at the same time preserving the right of a smoker to smoke in a convenient portion of the building. (EXHIBIT 1)

A discussion followed of just who is considered the manager of a building. Senator Christiaens felt in the counties you are elected to a position and each division has a manager.

Mary McCue, Legislative Staff Attorney, noted it would be necessary to say 7 or more people. Senator Christiaens noted this amendment just addresses and gives clarification to a problem in government. Senator Goodover felt the existing law is working and did not see the need for a change. Senator Christiaens noted he had received several phone calls pertaining to this situation and so had Senator Fuller. Senator Goodover felt there were many situations that could not be addressed in one bill. Senator Christiaens stated this was the reason he had specified state or political subdivision buildings. Senator Fuller supported Senator Christiaens in his efforts. He felt many people would benefit and it would be a start anyway. Senator Christiaens felt the manager would now be able to address the situation at least. Senator Gage wondered if the bill was broad enough to just add this in and Mary McCue felt we could just add a new short section. Senator Christiaens noted again this would just address the state entities and political subdivisions and then only when there is more than 7 in a department.

Senator Kolstad then MOVED TO BRING HOUSE BILL 183 OFF THE TABLE. On a roll vote there were five no's and 6 yes votes. Senator Boylan, Senator Goodover, Senator Kolstad, Senator Thayer and Senator Williams voted "no".

Senator Thayer wondered if a simple resolution could be presented to just state that one should adhere to the voluntary system or it could become mandatory.

Senator Christiaens then MADE A MOTION TO RETURN THE BILL TO THE LANGUAGE THAT WAS IN ORIGINALLY. The motion carried. Senator Halligan voted "no".

Senator Christiaens wanted to amend his proposal to say "in

offices, or work buildings" maintained by the state or political subdivisions the manager shall arrange nonsmoking areas.

Senator Weeding wondered if this would help people in large offices and it was felt it would not. He noted it would be hard to address every situation however.

Senator Williams wondered if the portion that says "protects the health of a nonsmoker" could be struck. He was informed this was already in existing law.

Senator Boylan wondered how a judge can rule that there be no smoking in a chamber. Senator Halligan noted we are just addressing the nonsmoking issue. Senator Fuller felt many people were afraid to speak up in some situations because of fear of repercussion and felt this might give the administrators some courage to do this enforcement on their own.

Senator Halligan noted the language dealing with public health is consistent with the Clean Indoor Air Act. Mary McCue asked Senator Christiaens if his intent was to arrange for smoking and nonsmoking areas and he stated it should say in a convenient part of the building. Senator Weeding felt everything should be struck after convenient area in the bill. Senator Christiaens stated the amendment should read office and working area in a building in which 7 or more people are employed the manager shall arrange for smoking and nonsmoking in a convenient area.

Senator Fuller MOVED TO REMOVE THE SENTENCE DEALING WITH THE LEGISLATURE FROM SENATOR CHRISTIAEN'S AMENDMENT. The motion carried.

Senator Weeding MOVED TO ADOPT THE AMENDMENT BUT STRIKE EVERYTHING AFTER CONVENIENT AREA AND INSERT A PERIOD INSTEAD. The motion carried with Senator Boylan and Senator Goodover voting "no".

Senator Christiaens then MOVED TO ADOPT HOUSE BILL 183 AS AMENDED. The motion carried. Senator Boylan and Senator Goodover voted "no". Senator Christiaens will carry the bill on the Senate floor.

The meeting was adjourned at 4:30 p.m.


SENATOR MIKE HALLIGAN, Chairman

EXHIBIT 1
BUSINESS & INDUSTRY
March 29, 1985

Proposed amendment to HB 183, third reading, blue copy.

"In buildings maintained by the state or a political subdivision thereof in which ^{seven} ~~7~~ or more employees of the state or political subdivision are employed, the manager shall arrange nonsmoking and smoking areas in a manner designed to protect the health of a nonsmoker while preserving the right of a smoker to smoke in a convenient area of the building. However, the legislature may set establish the policy regarding nonsmoking areas in its chambers and committee rooms."

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS & INDUSTRY

Date March 29, 1985 HOUSE Bill No. 183 Time

NAME	YES	NO
Chairman Mike Halligan	X	
V-Chrm. B. F. Christiaens	X	
Senator Paul Boylan		X
Senator David Fuller	X	
Senator Delwyn Gage	X	
Senator Pat Goodover		X
Senator Allen Kolstad		X
Senator Ted Neuman	X	
Senator Gene Thayer		X
Senator Bob Williams		X
Senator Cecil Weeding	X	

Carol Duval
Secretary

Mike Halligan
Chairman

Motion: Motion by Senator Kolstad to BRING HOUSE BILL 183
OFF THE TABLE. Motion carried 6-5.

SENATE

STANDING COMMITTEE REPORT

Page 1 of 2

MARCH 29 1985

MR. PRESIDENT

BUSINESS & INDUSTRY

We, your committee on

HOUSE BILL No. 183

having had under consideration

third reading copy (blue color)

DESIGNATED NONSMOKING AREA REQUIRED FOR ALL ENCLOSED PUBLIC PLACES
(Christiaens)

HOUSE BILL No. 183

Respectfully report as follows: That

be amended as follows:

1. Title, lines 5 through 8.
Following: "ENCLOSED" on line 5
Strike: remainder of line 5 through "NONCOMPLIANCE" on line 8
Insert: "WORK AREA MAINTAINED BY THE STATE OR A POLITICAL
SUBDIVISION THEREOF"

2. Title, line 8.
Following: "AMENDING"
Strike: "SECTIONS"
Insert: "SECTION"
Following: "50-40-104"
Strike: "AND"

3. Title, line 9.
Following: line 8
Strike: "50-40-109"

(continued on page 2)

House Bill 183
Business & Industry
Page 2 of 2

MARCH 29 1985

4. Pages 1 and 2.

Strike: everything following the enacting clause
Insert: "NEW SECTION. Section 1. Reservation of smoking
and nonsmoking areas in work areas in state and local
government buildings. In offices and work areas in buildings
maintained by the state or a political subdivision thereof
in which seven or more employees of the state or political
subdivision are employed, the manager or person in charge
of the work area shall arrange nonsmoking and smoking areas
in a convenient area."

Section 2. Section 50-40-104, MCA, is amended to read:
"50-40-104. Designation or reservation of smoking or
nonsmoking areas -- notice. (1) Except for those enclosed
public places provided for in 50-40-105 and as provided in
[section 1], the proprietor or manager of an enclosed public
place shall: (a) designate nonsmoking areas with easily
readable signs; or (b) reserve a part of the public place
for nonsmokers and post easily readable signs designating a
smoking area; or (c) designate the entire area as a smoking
area by posting a sign that is clearly visible to the public
stating this designation. (2) The proprietor or manager of
an establishment containing enclosed public places shall post
a sign in a conspicuous place at all public entrances to the
establishment stating, in a manner that can be easily read
and understood, whether or not areas within the establishment
have been reserved for nonsmokers. (3) The proprietor or
manager of an establishment containing both a restaurant and
a tavern, in which some patrons choose to eat their meals in
the tavern, is not required by this part to post a sign
described in subsection (2) in the tavern area of the
establishment."

AND AS AMENDED
BE CONCURRED IN

XXXXXX

XXXXXX

Chairman.

Sen. Mike Halligan, Chairman

HOUSE BILL NO. 183

INTRODUCED BY ELLERD, VINCENT, HARPER, SPAETH, O'HARA,
 REAM, NELSON, HAYNE, PETERSON, MENAHAN, O'CONNELL,
 PECK, JANET MOORE, HANSEN, BRANDEWIE, BERGENE,
 WALDRON, WINSLOW, MILES, GLASER, DARKO, THOMAS,
 MERCER, RAMIREZ, MARKS, KITSELMAN, KADAS, SANDS,
 KELLER, M. WILLIAMS, HARRINGTON, CONNELLY,
 BRADLEY, KOEHNKE, BACHINI

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THAT A
 NONSMOKING AREA BE DESIGNATED IN EACH ENCLOSED PUBLIC-PLACE;
~~TO--REMOVE--THE--OPTION--OF--DESIGNATING--THE--ENTIRE--AREA--OF--A~~
~~PUBLIC-PLACE--AS--A--SMOKING--AREA;--AND--TO--INCREASE--THE--PENALTY~~
~~FOR--NONCOMPLIANCE~~ WORK AREA MAINTAINED BY THE STATE OR A
POLITICAL SUBDIVISION THEREOF; AMENDING SECTIONS SECTION
50-40-104 AND 50-40-109, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

(Refer to Third Reading Bill)

Strike everything after the enacting clause and insert:

NEW SECTION. Section 1. Reservation of smoking and
 nonsmoking areas in work areas in state and local government
 buildings. In offices and work areas in buildings maintained
 by the state or a political subdivision thereof in which
 seven or more employees of the state or political

subdivision are employed, the manager or person in charge of
 the work area shall arrange nonsmoking and smoking areas in
 a convenient area.

Section 2. Section 50-40-104, MCA, is amended to read:

"50-40-104. Designation or reservation of smoking or
 nonsmoking areas -- notice. (1) Except for those enclosed
 public places provided for in 50-40-105 and as provided in
[section 1], the proprietor or manager of an enclosed public
 place shall:

(a) designate nonsmoking areas with easily readable
 signs; or

(b) reserve a part of the public place for nonsmokers
 and post easily readable signs designating a smoking area;
 or

(c) designate the entire area as a smoking area by
 posting a sign that is clearly visible to the public stating
 this designation.

(2) The proprietor or manager of an establishment
 containing enclosed public places shall post a sign in a
 conspicuous place at all public entrances to the
 establishment stating, in a manner that can be easily read
 and understood, whether or not areas within the
 establishment have been reserved for nonsmokers.

(3) The proprietor or manager of an establishment
 containing both a restaurant and a tavern, in which some

1 patrons choose to eat their meals in the tavern, is not
2 required by this part to post a sign described in subsection
3 (2) in the tavern area of the establishment."

-End-